U.S. Sentencing Commission
Special Post-Booker Coding Project

Information for All Cases

—

Cases Sentenced Subsequent to *U.S. v Booker*
(Data Extraction as of June 6, 2005)

Published: July 14, 2005

U.S. SENTENCING COMMISSION
SPECIAL POST-BOOKER CODING PROJECT
DATA EXTRACTION DATE: JUNE 6, 2005

CONTENTS

U.S. SENTENCING COMMISSION
SPECIAL POST-BOOKER CODING PROJECT
DATA EXTRACTION DATE: JUNE 6, 2005

I. NATIONAL

NATIONAL
COMPARISON OF SENTENCE IMPOSED
AND POSITION RELATIVE TO THE GUIDELINE RANGE
Cases Sentenced Subsequent to *US v. Booker* with Data Available to USSC on June 6, 2005

	N	%
TOTAL[1]	**20,369**	**100.0**
WITHIN GUIDELINE RANGE	**12,560**	**61.7**
DEPARTURE ABOVE GUIDELINE RANGE	**67**	**0.3**
Upward Departure from the Guideline Range[2]	49	0.2
Upward Departure with Booker/18 USC §3553[3]	18	0.1
OTHERWISE ABOVE THE GUIDELINE RANGE	**298**	**1.5**
Above the Range with Booker/18 USC §3553[4]	144	0.7
All Remaining Cases Above the Guideline Range[5]	154	0.8
GOVERNMENT-SPONSORED BELOW RANGE	**4,693**	**23.0**
§5K1.1 Substantial Assistance Departure	3,019	14.8
§5K3.1 Early Disposition Program Departure	1,229	6.0
Government-Sponsored Departure[6]	445	2.2
DEPARTURE BELOW GUIDELINE RANGE	**598**	**2.9**
Downward Departure from the Guideline Range[2]	461	2.3
Downward Departure with Booker/18 USC §3553[3]	137	0.7
OTHERWISE BELOW THE GUIDELINE RANGE	**2,153**	**10.6**
Below the Range with Booker/18 USC §3553[4]	1,303	6.4
All Remaining Cases Below the Guideline Range[5]	850	4.2

[1]This table reflects the 21,025 cases sentenced subsequent to the *US v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by June 6, 2005. Of this total, there are 656 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

[2]All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual.

[3]All cases with imposed sentences outside of the guideline range citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual, and additionally mentioning either *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.
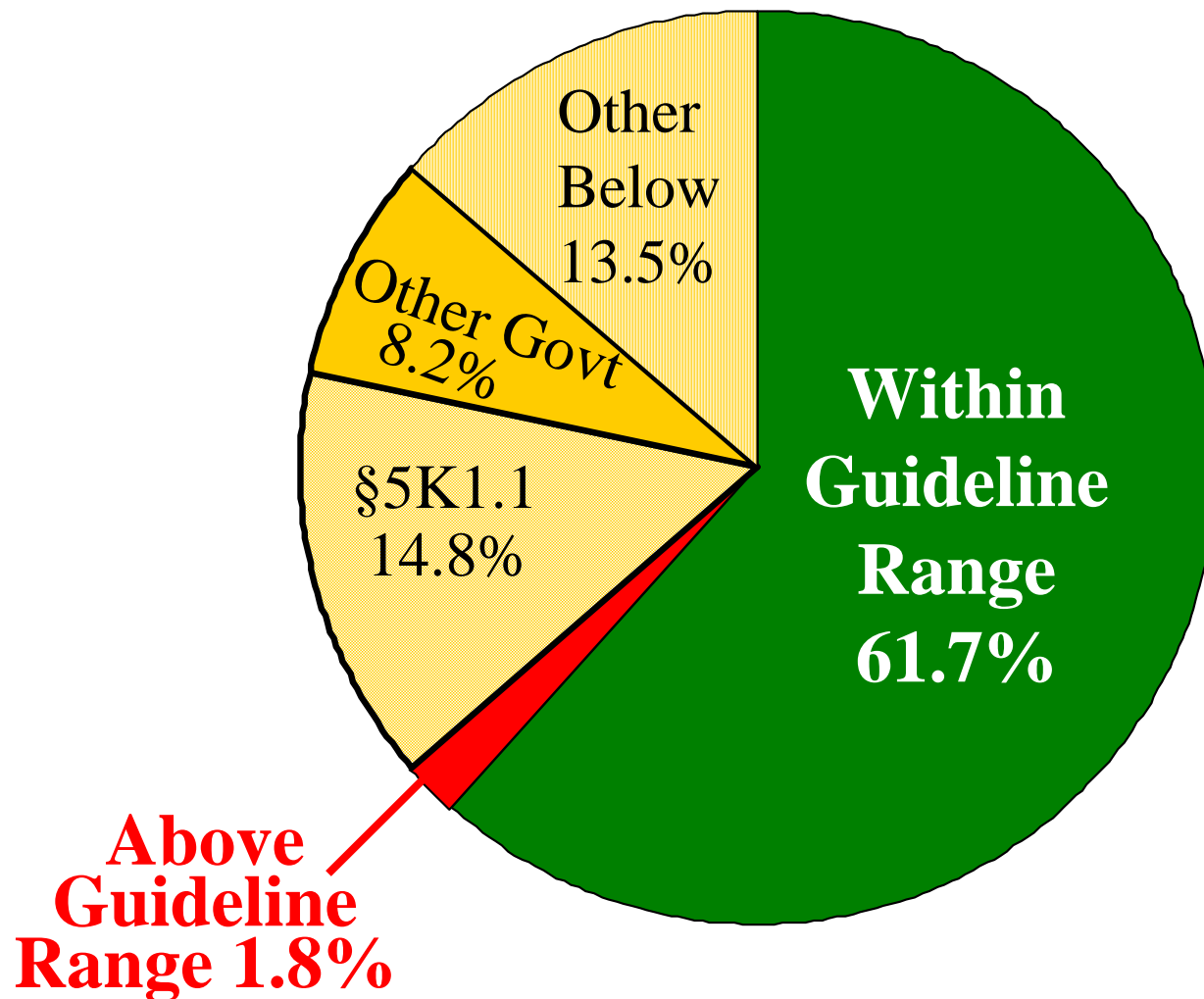
[4]All cases with imposed sentences outside of the guideline range mentioning only *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

[5]Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to Booker/18 USC §3553. This category includes cases which cite departure reasons that are *not* affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual and cases which do not provide any reason for the sentence outside of the guideline range.

[6]Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; table prepared on July 11, 2005). Numbers may not sum to 100 percent due to rounding.

Position of Sentences in Relation to Guideline Range
After *United States v. Booker* Decision

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; prepared July 11, 2005).

Distribution of Cases Below the Guideline Range
After *United States v. Booker* Decision

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; prepared July 11, 2005).

Distribution of Cases Below the Guideline Range
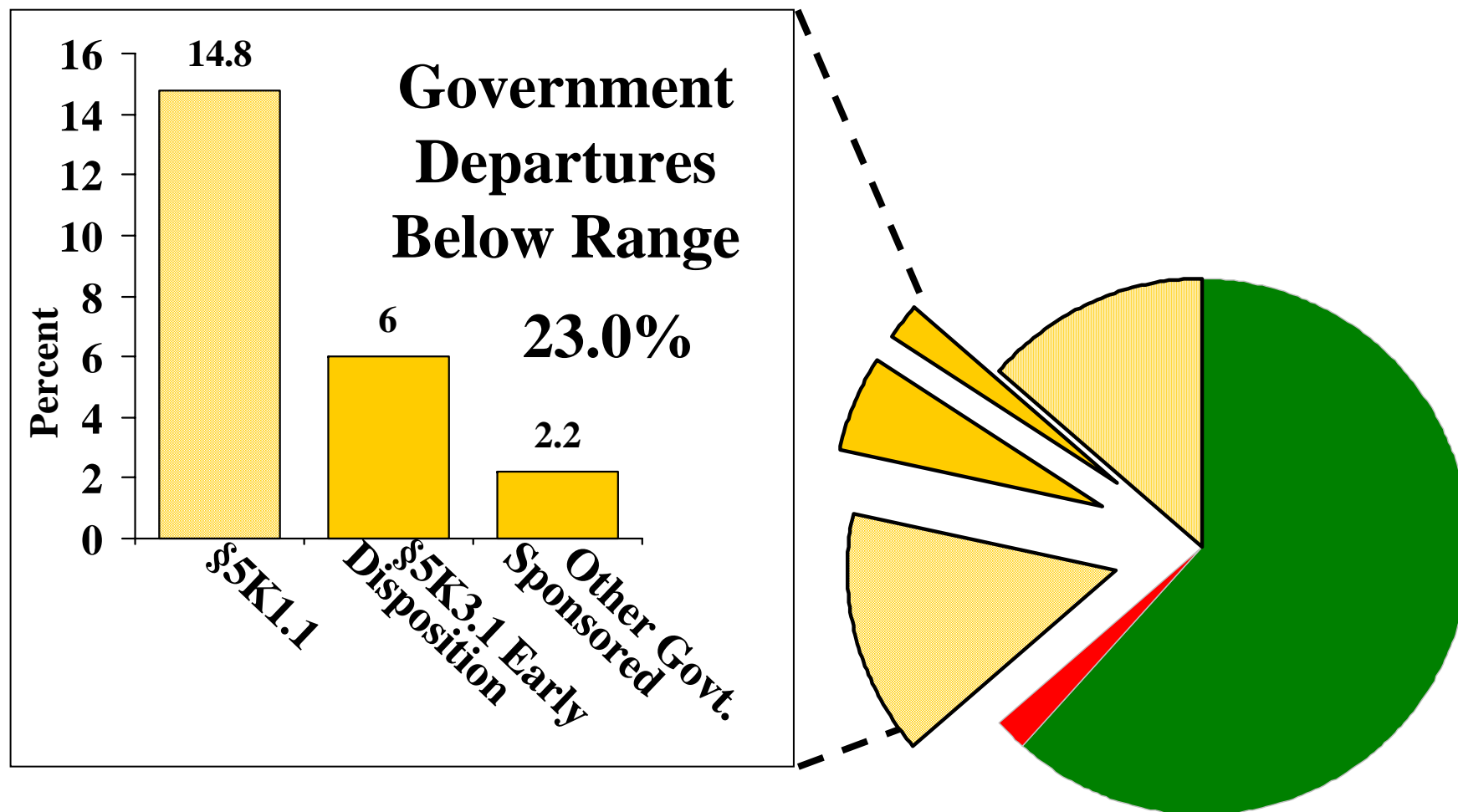## After *United States v. Booker* Decision

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; prepared July 11, 2005).

Position of Sentences in Relation to Guideline Range

Post-Booker (as of 6/6/05)
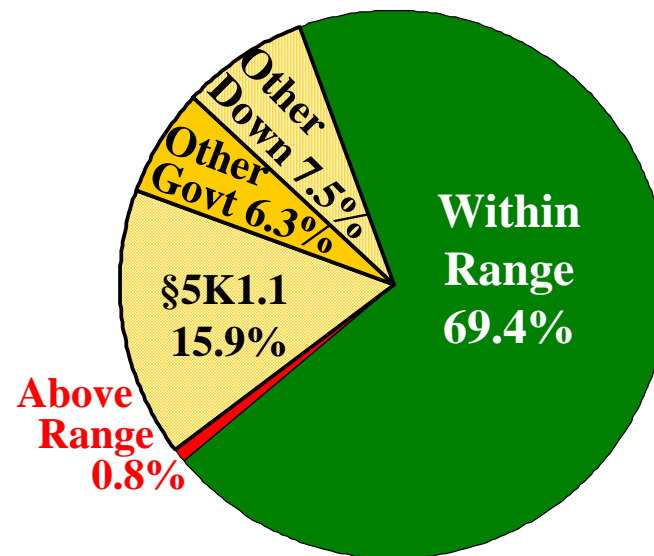
- Other Down 13.5%
- Other Govt 8.2%
- §5K1.1 14.8%
- Within Range 61.7%
- Above Range 1.8%

Fiscal Year 2002

- Other Down 11.9%
- Other Govt 4.9%
- §5K1.1 17.4%
- Within Range 65.0%
- Above Range 0.8%

Fiscal Year 2003

- Other Down 7.5%
- Other Govt 6.3%
- §5K1.1 15.9%
- Within Range 69.4%
- Above Range 0.8%
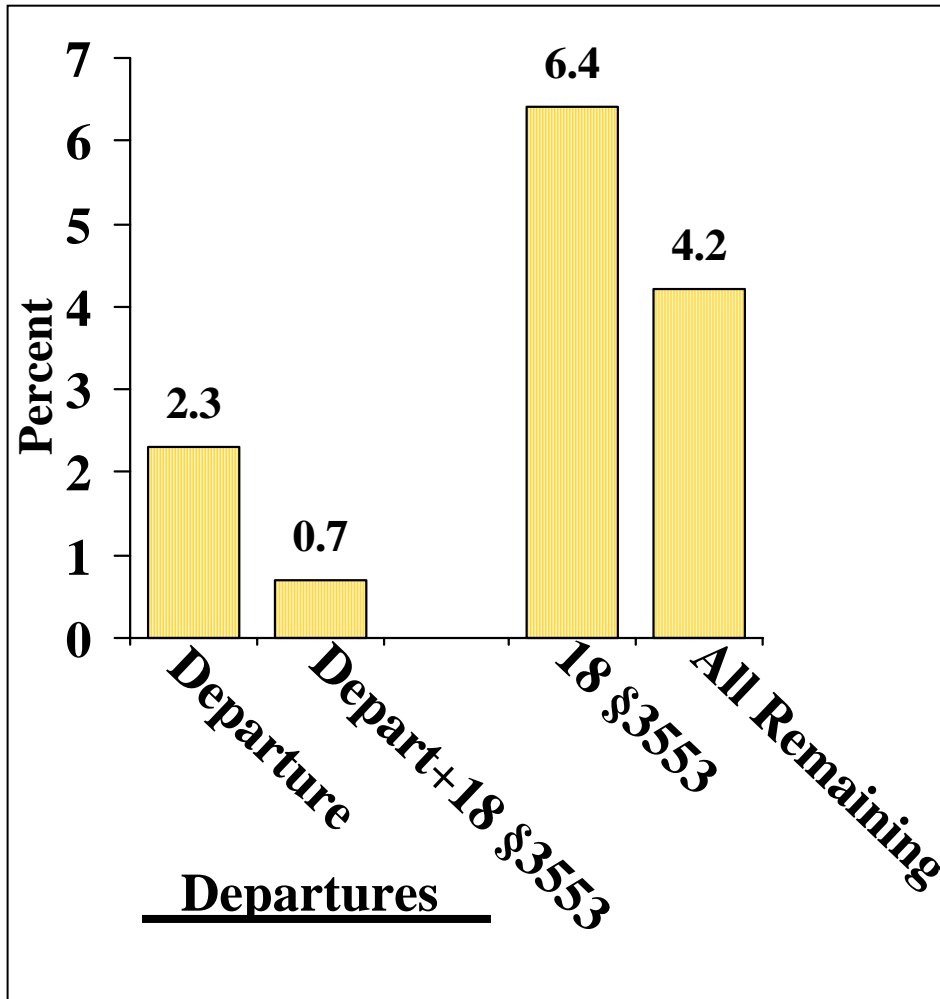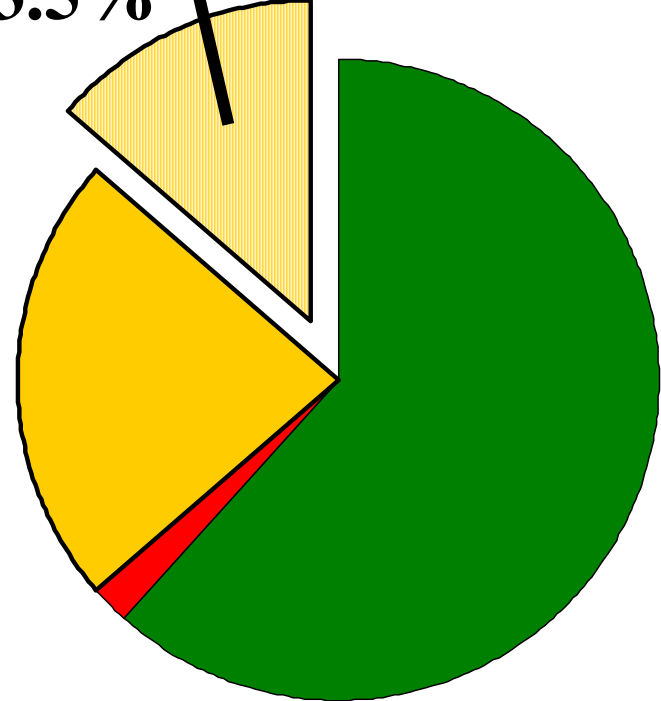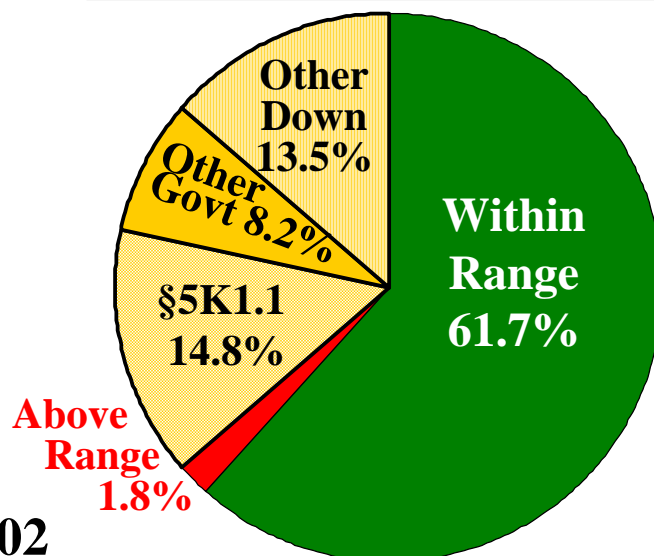
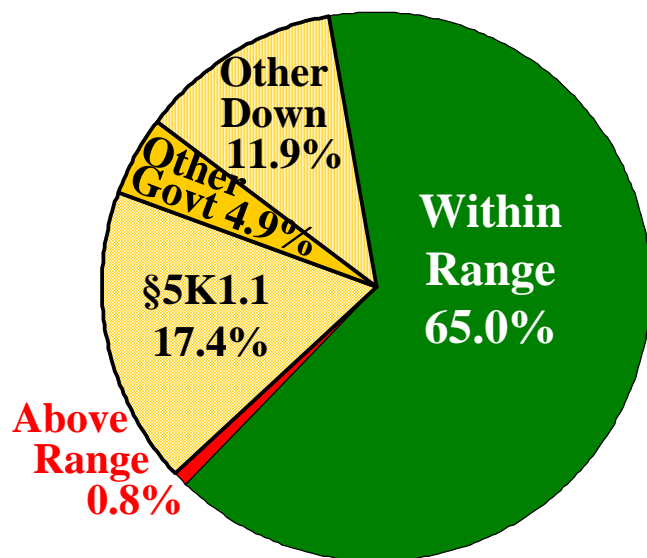SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; prepared July 11, 2005); 2002 and 2003 Datafiles, USSCFY02 and USSCFY03.

II. CIRCUIT

GUIDELINE OFFENDERS IN EACH CIRCUIT AND DISTRICT[1]
Special Post-Booker Coding Project (Data Extracted 06/06/05)

CIRCUIT				CIRCUIT		
District	Number	Percent		District	Number	Percent
TOTAL	**21,025**	**100.0**				
				FIFTH CIRCUIT	**4,737**	**22.5**
D.C. CIRCUIT	**168**	**0.8**		Louisiana		
District of Columbia	168	0.8		Eastern	113	0.5
				Middle	56	0.3
FIRST CIRCUIT	**486**	**2.3**		Western	150	0.7
Maine	84	0.4		Mississippi		
Massachusetts	132	0.6		Northern	71	0.3
New Hampshire	67	0.3		Southern	147	0.7
Puerto Rico	163	0.8		Texas		
Rhode Island	40	0.2		Eastern	273	1.3
				Northern	322	1.5
SECOND CIRCUIT	**898**	**4.3**		Southern	2,118	10.1
Connecticut	106	0.5		Western	1,487	7.1
New York						
Eastern	386	1.8		**SIXTH CIRCUIT**	**1,579**	**7.5**
Northern	106	0.5		Kentucky		
Southern	50	0.2		Eastern	151	0.7
Western	165	0.8		Western	143	0.7
Vermont	85	0.4		Michigan		
				Eastern	220	1.0
THIRD CIRCUIT	**1,134**	**5.4**		Western	130	0.6
Delaware	65	0.3		Ohio		
New Jersey	347	1.7		Northern	238	1.1
Pennsylvania				Southern	175	0.8
Eastern	353	1.7		Tennessee		
Middle	214	1.0		Eastern	211	1.0
Western	129	0.6		Middle	90	0.4
Virgin Islands	26	0.1		Western	221	1.1
FOURTH CIRCUIT	**1,947**	**9.3**		**SEVENTH CIRCUIT**	**935**	**4.4**
Maryland	237	1.1		Illinois		
North Carolina				Central	149	0.7
Eastern	197	0.9		Northern	322	1.5
Middle	150	0.7		Southern	86	0.4
Western	143	0.7		Indiana		
South Carolina	310	1.5		Northern	133	0.6
Virginia				Southern	79	0.4
Eastern	500	2.4		Wisconsin		
Western	196	0.9		Eastern	110	0.5
West Virginia				Western	56	0.3
Northern	88	0.4				
Southern	126	0.6				

(continued)

CIRCUIT				CIRCUIT		
District	Number	Percent		District	Number	Percent
EIGHTH CIRCUIT	**1,659**	**7.9**		**TENTH CIRCUIT**	**1,659**	**7.9**
Arkansas				Colorado	210	1.0
Eastern	88	0.4		Kansas	234	1.1
Western	59	0.3		New Mexico	700	3.3
Iowa				Oklahoma		
Northern	133	0.6		Eastern	37	0.2
Southern	105	0.5		Northern	62	0.3
Minnesota	174	0.8		Western	79	0.4
Missouri				Utah	279	1.3
Eastern	346	1.6		Wyoming	58	0.3
Western	224	1.1				
Nebraska	308	1.5		**ELEVENTH CIRCUIT**	**2,109**	**10.0**
North Dakota	66	0.3		Alabama		
South Dakota	156	0.7		Middle	60	0.3
				Northern	131	0.6
NINTH CIRCUIT	**3,714**	**17.7**		Southern	81	0.4
Alaska	68	0.3		Florida		
Arizona	1,188	5.7		Middle	617	2.9
California				Northern	106	0.5
Central	200	1.0		Southern	663	3.2
Eastern	277	1.3		Georgia		
Northern	213	1.0		Middle	108	0.5
Southern	759	3.6		Northern	212	1.0
Guam	23	0.1		Southern	131	0.6
Hawaii	148	0.7				
Idaho	74	0.4				
Montana	123	0.6				
Nevada	101	0.5				
Northern Mariana Islands	7	0.0				
Oregon	171	0.8				
Washington						
Eastern	117	0.6				
Western	245	1.2				

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extracted June 6, 2005; table prepared July 11, 2005). Percents may not sum to 100 percent due to rounding.

DISTRICT OF COLUMBIA
POSITION RELATIVE TO THE GUIDELINE RANGE
Cases Sentenced Subsequent to *US v. Booker* with Data Available to USSC on June 6, 2005

	N	%
TOTAL[1]	**166**	**100.0**
WITHIN GUIDELINE RANGE	**94**	**56.6**
DEPARTURE ABOVE GUIDELINE RANGE	**0**	**0.0**
Upward Departure from the Guideline Range[2]	0	0.0
Upward Departure with Booker/18 USC §3553[3]	0	0.0
OTHERWISE ABOVE THE GUIDELINE RANGE	**3**	**1.8**
Above the Range with Booker/18 USC §3553[4]	0	0.0
All Remaining Cases Above the Guideline Range[5]	3	1.8
GOVERNMENT-SPONSORED BELOW RANGE	**46**	**27.7**
§5K1.1 Substantial Assistance Departure	34	20.5
§5K3.1 Early Disposition Program Departure	0	0.0
Government-Sponsored Departure[6]	12	7.2
DEPARTURE BELOW GUIDELINE RANGE	**6**	**3.6**
Downward Departure from the Guideline Range[2]	2	1.2
Downward Departure with Booker/18 USC §3553[3]	4	2.4
OTHERWISE BELOW THE GUIDELINE RANGE	**17**	**10.2**
Below the Range with Booker/18 USC §3553[4]	7	4.2
All Remaining Cases Below the Guideline Range[5]	10	6.0

[1]This table reflects the 168 cases sentenced subsequent to the *US v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by June 6, 2005. Of this total, there are 2 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

[2]All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual.

[3]All cases with imposed sentences outside of the guideline range citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual, and additionally mentioning either *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

[4]All cases with imposed sentences outside of the guideline range mentioning only *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

[5]Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to Booker/18 USC §3553. This category includes cases which cite departure reasons that are *not* affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual and cases which do not provide any reason for the sentence outside of the guideline range.

[6]Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; table prepared on July 11, 2005). Numbers may not sum to 100 percent due to rounding.

DISTRICT OF COLUMBIA
Position of Sentences in Relation to Guideline Range
After *United States v. Booker* Decision
(Data Extracted as of June 6, 2005)
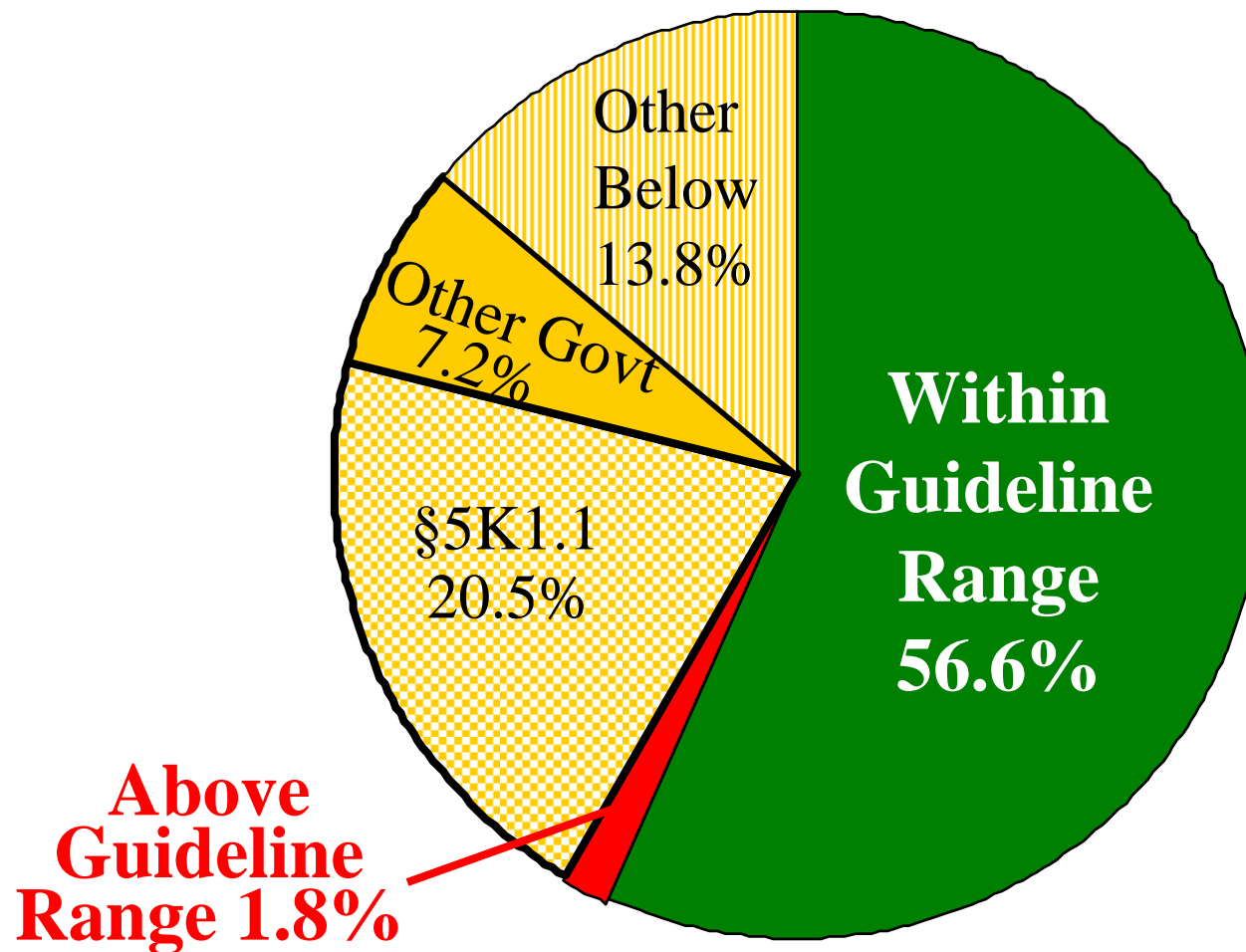
SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; prepared July 11, 2005).

FIRST CIRCUIT
COMPARISON OF SENTENCE IMPOSED
AND POSITION RELATIVE TO THE GUIDELINE RANGE
Cases Sentenced Subsequent to *US v. Booker* with Data Available to USSC on June 6, 2005

	N	%
TOTAL[1]	**467**	**99.9**
WITHIN GUIDELINE RANGE	**289**	**61.9**
DEPARTURE ABOVE GUIDELINE RANGE	**1**	**0.2**
Upward Departure from the Guideline Range[2]	0	0.0
Upward Departure with Booker/18 USC §3553[3]	1	0.2
OTHERWISE ABOVE THE GUIDELINE RANGE	**13**	**2.7**
Above the Range with Booker/18 USC §3553[4]	10	2.1
All Remaining Cases Above the Guideline Range[5]	3	0.6
GOVERNMENT-SPONSORED BELOW RANGE	**61**	**13.1**
§5K1.1 Substantial Assistance Departure	54	11.6
§5K3.1 Early Disposition Program Departure	0	0.0
Government-Sponsored Departure[6]	7	1.5
DEPARTURE BELOW GUIDELINE RANGE	**14**	**3.0**
Downward Departure from the Guideline Range[2]	11	2.4
Downward Departure with Booker/18 USC §3553[3]	3	0.6
OTHERWISE BELOW THE GUIDELINE RANGE	**89**	**19.1**
Below the Range with Booker/18 USC §3553[4]	55	11.8
All Remaining Cases Below the Guideline Range[5]	34	7.3

[1]This table reflects the 486 cases sentenced subsequent to the *US v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by June 6, 2005. Of this total, there are 19 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

[2]All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual.

[3]All cases with imposed sentences outside of the guideline range citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual, and additionally mentioning either *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

[4]All cases with imposed sentences outside of the guideline range mentioning only *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

[5]Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to Booker/18 USC §3553. This category includes cases which cite departure reasons that are *not* affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual and cases which do not provide any reason for the sentence outside of the guideline range.

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FIRST CIRCUIT
Position of Sentences in Relation to Guideline Range
After *United States v. Booker* Decision
(Data Extracted as of June 6, 2005)

Other Below 22.1%

Other Govt 1.5%

§5K1.1 11.6%

Within Guideline Range 61.9%

Above Guideline Range 2.9%
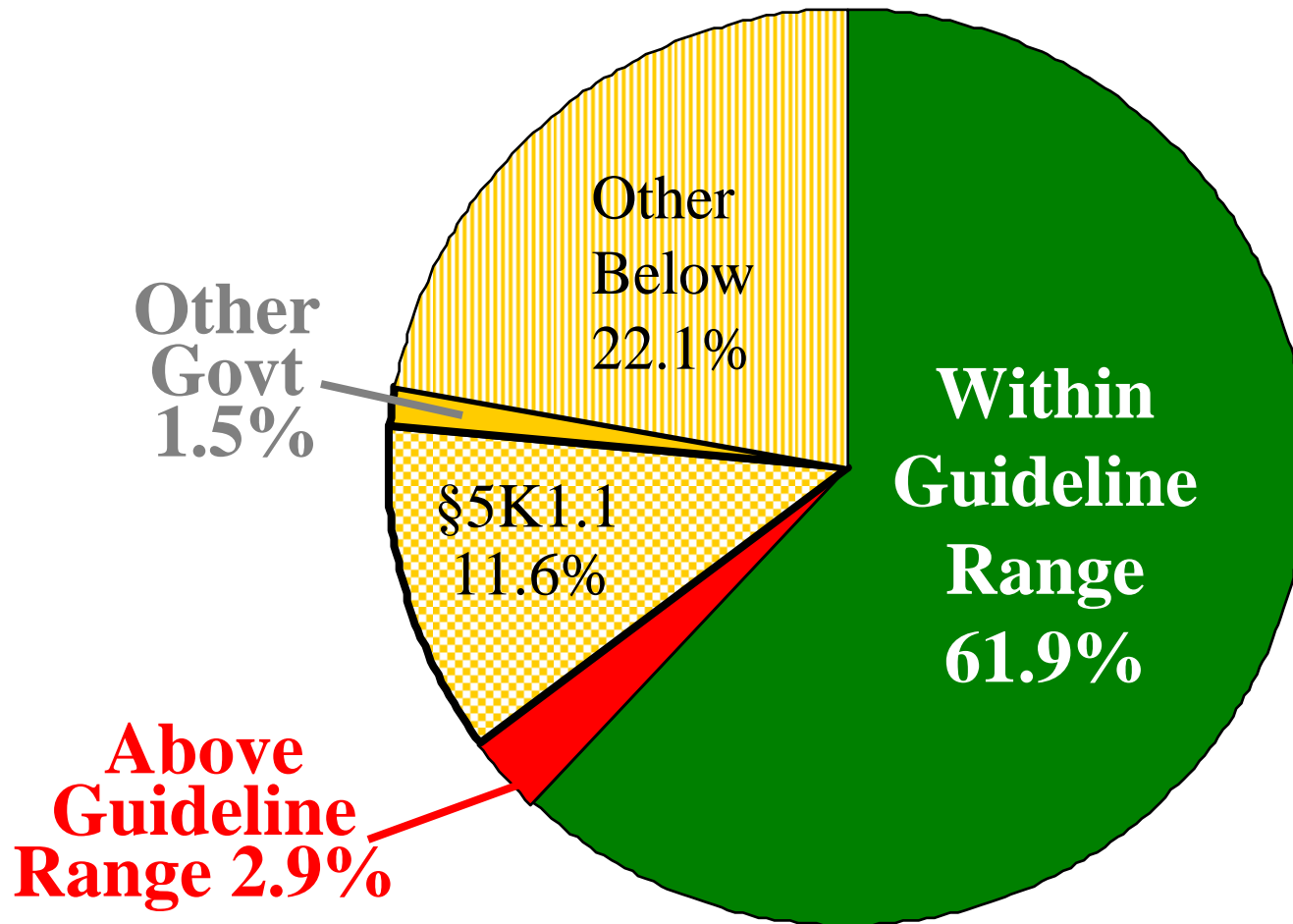
SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; prepared July 11, 2005).

SECOND CIRCUIT
COMPARISON OF SENTENCE IMPOSED
AND POSITION RELATIVE TO THE GUIDELINE RANGE
Cases Sentenced Subsequent to *US v. Booker* with Data Available to USSC on June 6, 2005

	N	%
TOTAL[1]	**872**	**99.9**
WITHIN GUIDELINE RANGE	**392**	**45.0**
DEPARTURE ABOVE GUIDELINE RANGE	**1**	**0.1**
Upward Departure from the Guideline Range[2]	1	0.1
Upward Departure with Booker/18 USC §3553[3]	0	0.0
OTHERWISE ABOVE THE GUIDELINE RANGE	**9**	**1.1**
Above the Range with Booker/18 USC §3553[4]	4	0.5
All Remaining Cases Above the Guideline Range[5]	5	0.6
GOVERNMENT-SPONSORED BELOW RANGE	**230**	**26.4**
§5K1.1 Substantial Assistance Departure	209	24.0
§5K3.1 Early Disposition Program Departure	0	0.0
Government-Sponsored Departure[6]	21	2.4
DEPARTURE BELOW GUIDELINE RANGE	**66**	**7.5**
Downward Departure from the Guideline Range[2]	51	5.8
Downward Departure with Booker/18 USC §3553[3]	15	1.7
OTHERWISE BELOW THE GUIDELINE RANGE	**174**	**19.9**
Below the Range with Booker/18 USC §3553[4]	77	8.8
All Remaining Cases Below the Guideline Range[5]	97	11.1

[1]This table reflects the 898 cases sentenced subsequent to the *US v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by June 6, 2005. Of this total, there are 26 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

[2]All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to*,* and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual.

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[4]All cases with imposed sentences outside of the guideline range mentioning only *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

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SECOND CIRCUIT
Position of Sentences in Relation to Guideline Range
After *United States v. Booker* Decision
(Data Extracted as of June 6, 2005)

Other Below 27.4%

Other Govt 2.4%

§5K1.1 24.0%

Within Guideline Range 45.0%

Above Guideline Range 1.2%
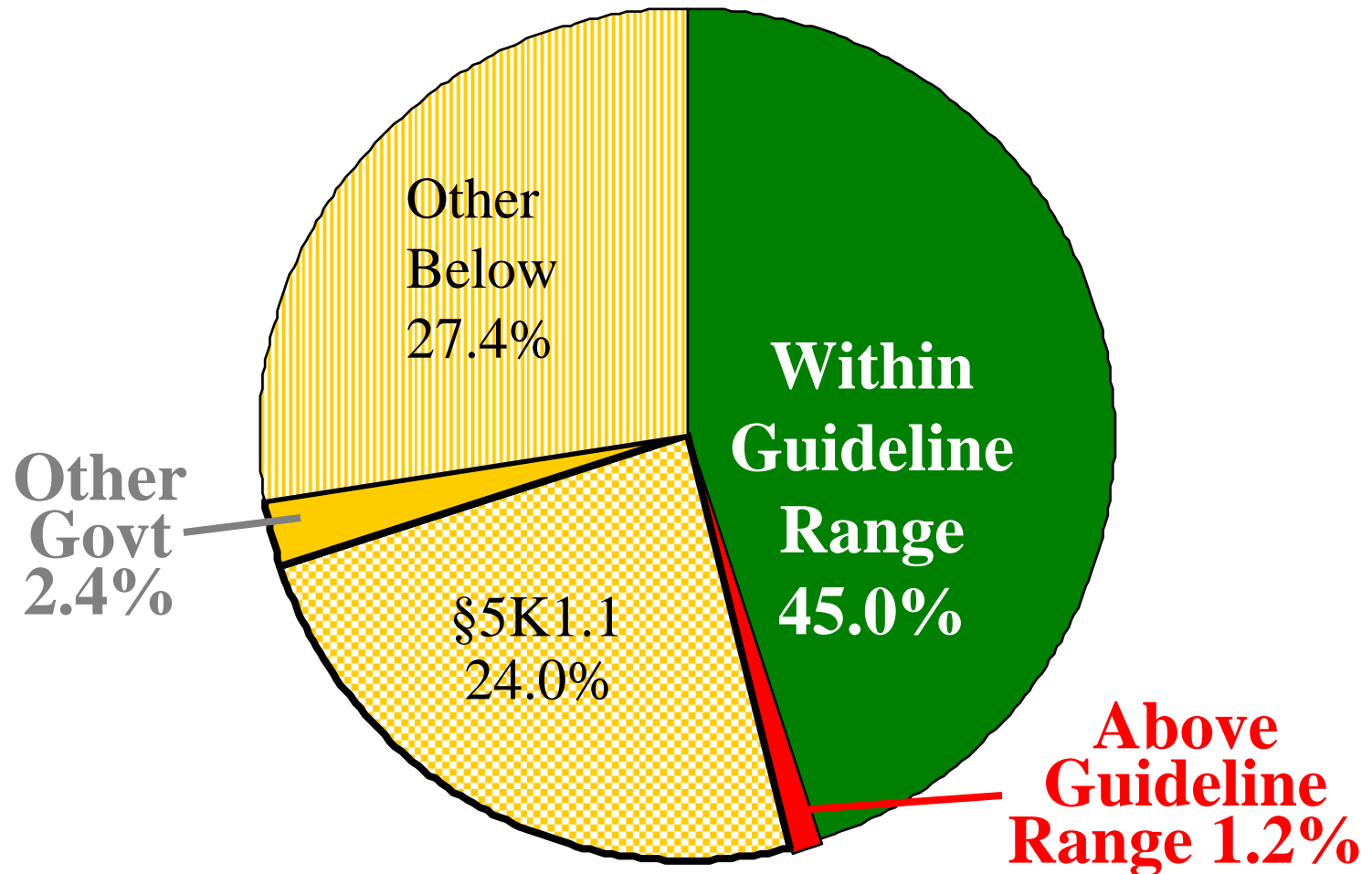
SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; prepared July 11, 2005).

THIRD CIRCUIT
COMPARISON OF SENTENCE IMPOSED
AND POSITION RELATIVE TO THE GUIDELINE RANGE
Cases Sentenced Subsequent to *US v. Booker* with Data Available to USSC on June 6, 2005

	N	%
TOTAL[1]	**1,116**	**100.1**
WITHIN GUIDELINE RANGE	**571**	**51.2**
DEPARTURE ABOVE GUIDELINE RANGE	**2**	**0.2**
Upward Departure from the Guideline Range[2]	1	0.1
Upward Departure with Booker/18 USC §3553[3]	1	0.1
OTHERWISE ABOVE THE GUIDELINE RANGE	**18**	**1.6**
Above the Range with Booker/18 USC §3553[4]	10	0.9
All Remaining Cases Above the Guideline Range[5]	8	0.7
GOVERNMENT-SPONSORED BELOW RANGE	**323**	**28.9**
§5K1.1 Substantial Assistance Departure	304	27.2
§5K3.1 Early Disposition Program Departure	0	0.0
Government-Sponsored Departure[6]	19	1.7
DEPARTURE BELOW GUIDELINE RANGE	**31**	**2.8**
Downward Departure from the Guideline Range[2]	22	2.0
Downward Departure with Booker/18 USC §3553[3]	9	0.8
OTHERWISE BELOW THE GUIDELINE RANGE	**171**	**15.4**
Below the Range with Booker/18 USC §3553[4]	101	9.1
All Remaining Cases Below the Guideline Range[5]	70	6.3

[1]This table reflects the 1,134 cases sentenced subsequent to the *US v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by June 6, 2005. Of this total, there are 18 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

[2]All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual.

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THIRD CIRCUIT
Position of Sentences in Relation to Guideline Range
After *United States v. Booker* Decision
(Data Extracted as of June 6, 2005)

Other Govt 1.7%

Other Below 18.2%

§5K1.1 27.2%

Within Guideline Range 51.2%

Above Guideline Range 1.8%
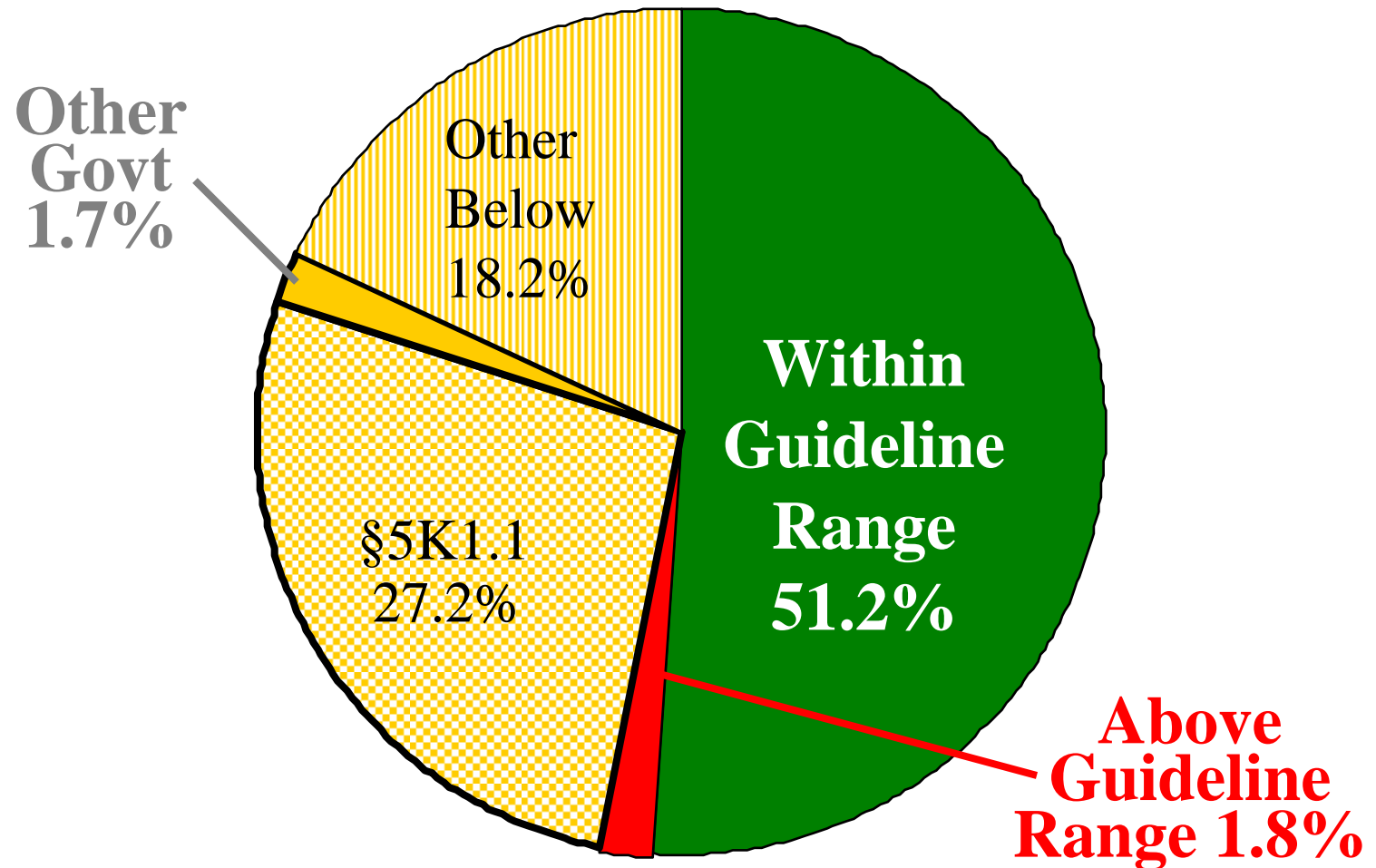
SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; prepared July 11, 2005).

FOURTH CIRCUIT
COMPARISON OF SENTENCE IMPOSED
AND POSITION RELATIVE TO THE GUIDELINE RANGE
Cases Sentenced Subsequent to *US v. Booker* with Data Available to USSC on June 6, 2005

	N	%
TOTAL[1]	**1,847**	**99.9**
WITHIN GUIDELINE RANGE	**1,219**	**66.0**
DEPARTURE ABOVE GUIDELINE RANGE	**8**	**0.4**
Upward Departure from the Guideline Range[2]	6	0.3
Upward Departure with Booker/18 USC §3553[3]	2	0.1
OTHERWISE ABOVE THE GUIDELINE RANGE	**18**	**0.9**
Above the Range with Booker/18 USC §3553[4]	8	0.4
All Remaining Cases Above the Guideline Range[5]	10	0.5
GOVERNMENT-SPONSORED BELOW RANGE	**360**	**19.5**
§5K1.1 Substantial Assistance Departure	344	18.6
§5K3.1 Early Disposition Program Departure	1	0.1
Government-Sponsored Departure[6]	15	0.8
DEPARTURE BELOW GUIDELINE RANGE	**40**	**2.1**
Downward Departure from the Guideline Range[2]	30	1.6
Downward Departure with Booker/18 USC §3553[3]	10	0.5
OTHERWISE BELOW THE GUIDELINE RANGE	**202**	**10.9**
Below the Range with Booker/18 USC §3553[4]	124	6.7
All Remaining Cases Below the Guideline Range[5]	78	4.2

[1]This table reflects the 1,947 cases sentenced subsequent to the *US v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by June 6, 2005. Of this total, there are 100 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

[2]All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to*,* and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal <u>Guidelines Manual</u>.

[3]All cases with imposed sentences outside of the guideline range citing reasons for departure limited to*,* and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal <u>Guidelines Manual</u>, and additionally mentioning either *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

[4]All cases with imposed sentences outside of the guideline range mentioning only *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

[5]Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to Booker/18 USC §3553. This category includes cases which cite departure reasons that are ***not*** affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal <u>Guidelines Manual</u> and cases which do not provide any reason for the sentence outside of the guideline range.

[6]Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; table prepared on July 11, 2005). Numbers may not sum to 100 percent due to rounding.

FOURTH CIRCUIT
Position of Sentences in Relation to Guideline Range
After *United States v. Booker* Decision
(Data Extracted as of June 6, 2005)

Other Govt 0.9%

Other Below 13.0%

§5K1.1 18.6%

Above Guideline Range 1.3%

Within Guideline Range 66.0%
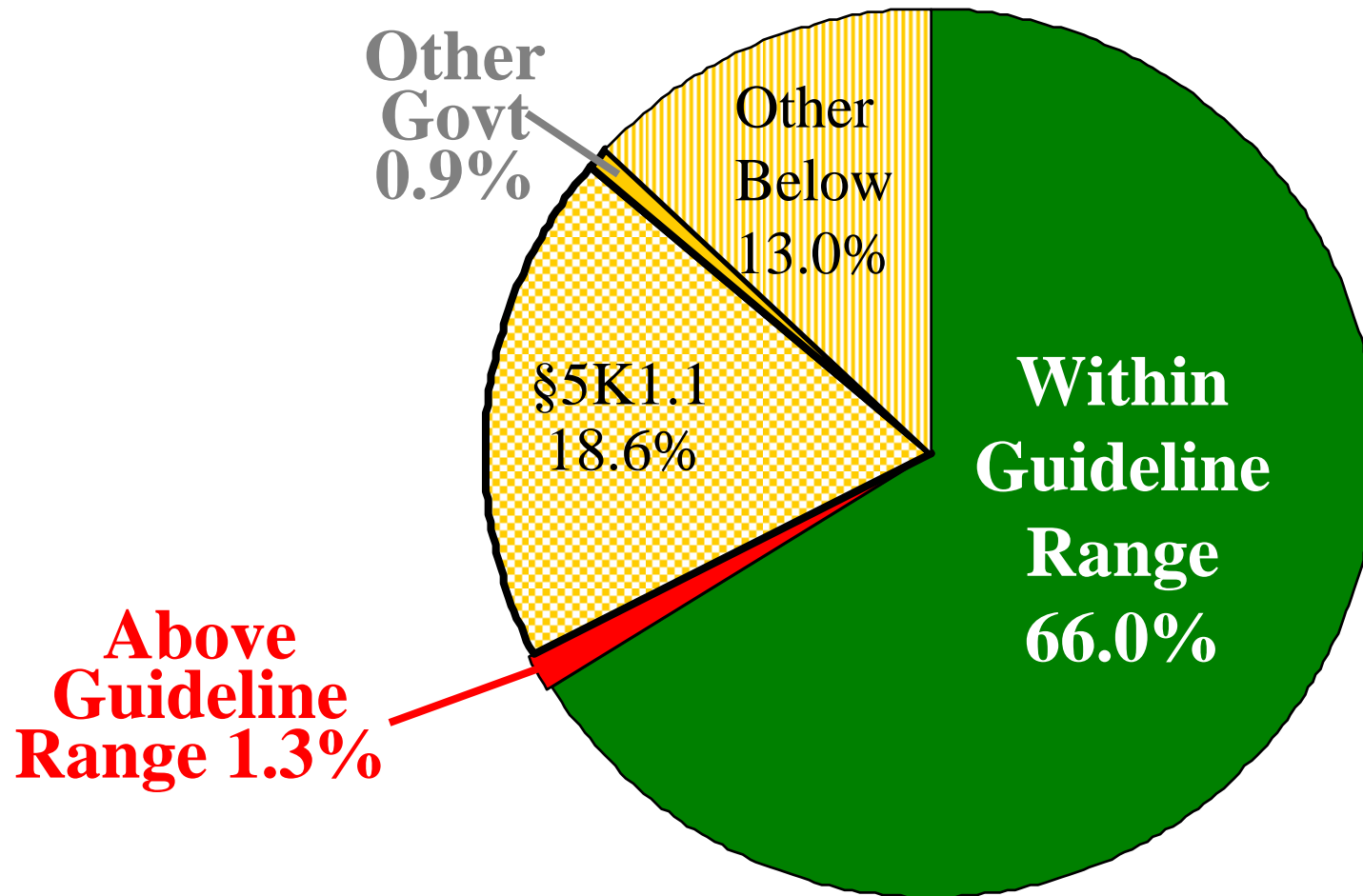
SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; prepared July 11, 2005).

FIFTH CIRCUIT
COMPARISON OF SENTENCE IMPOSED
AND POSITION RELATIVE TO THE GUIDELINE RANGE
Cases Sentenced Subsequent to *US v. Booker* with Data Available to USSC on June 6, 2005

	N	%
TOTAL[1]	**4,701**	**100.0**
WITHIN GUIDELINE RANGE	**3,323**	**70.7**
DEPARTURE ABOVE GUIDELINE RANGE	**14**	**0.3**
Upward Departure from the Guideline Range[2]	8	0.2
Upward Departure with Booker/18 USC §3553[3]	6	0.1
OTHERWISE ABOVE THE GUIDELINE RANGE	**76**	**1.6**
Above the Range with Booker/18 USC §3553[4]	44	0.9
All Remaining Cases Above the Guideline Range[5]	32	0.7
GOVERNMENT-SPONSORED BELOW RANGE	**789**	**16.8**
§5K1.1 Substantial Assistance Departure	422	9.0
§5K3.1 Early Disposition Program Departure	319	6.8
Government-Sponsored Departure[6]	48	1.0
DEPARTURE BELOW GUIDELINE RANGE	**117**	**2.5**
Downward Departure from the Guideline Range[2]	84	1.8
Downward Departure with Booker/18 USC §3553[3]	33	0.7
OTHERWISE BELOW THE GUIDELINE RANGE	**382**	**8.1**
Below the Range with Booker/18 USC §3553[4]	269	5.7
All Remaining Cases Below the Guideline Range[5]	113	2.4

[1]This table reflects the 4,737 cases sentenced subsequent to the *US v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by June 6, 2005. Of this total, there are 36 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

[2]All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to*,* and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual.

[3]All cases with imposed sentences outside of the guideline range citing reasons for departure limited to*,* and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual, and additionally mentioning either *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

[4]All cases with imposed sentences outside of the guideline range mentioning only *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

[5]Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to Booker/18 USC §3553. This category includes cases which cite departure reasons that are *not* affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual and cases which do not provide any reason for the sentence outside of the guideline range.

[6]Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; table prepared on July 11, 2005). Numbers may not sum to 100 percent due to rounding.

FIFTH CIRCUIT
Position of Sentences in Relation to Guideline Range
After *United States v. Booker* Decision
(Data Extracted as of June 6, 2005)

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; prepared July 11, 2005).
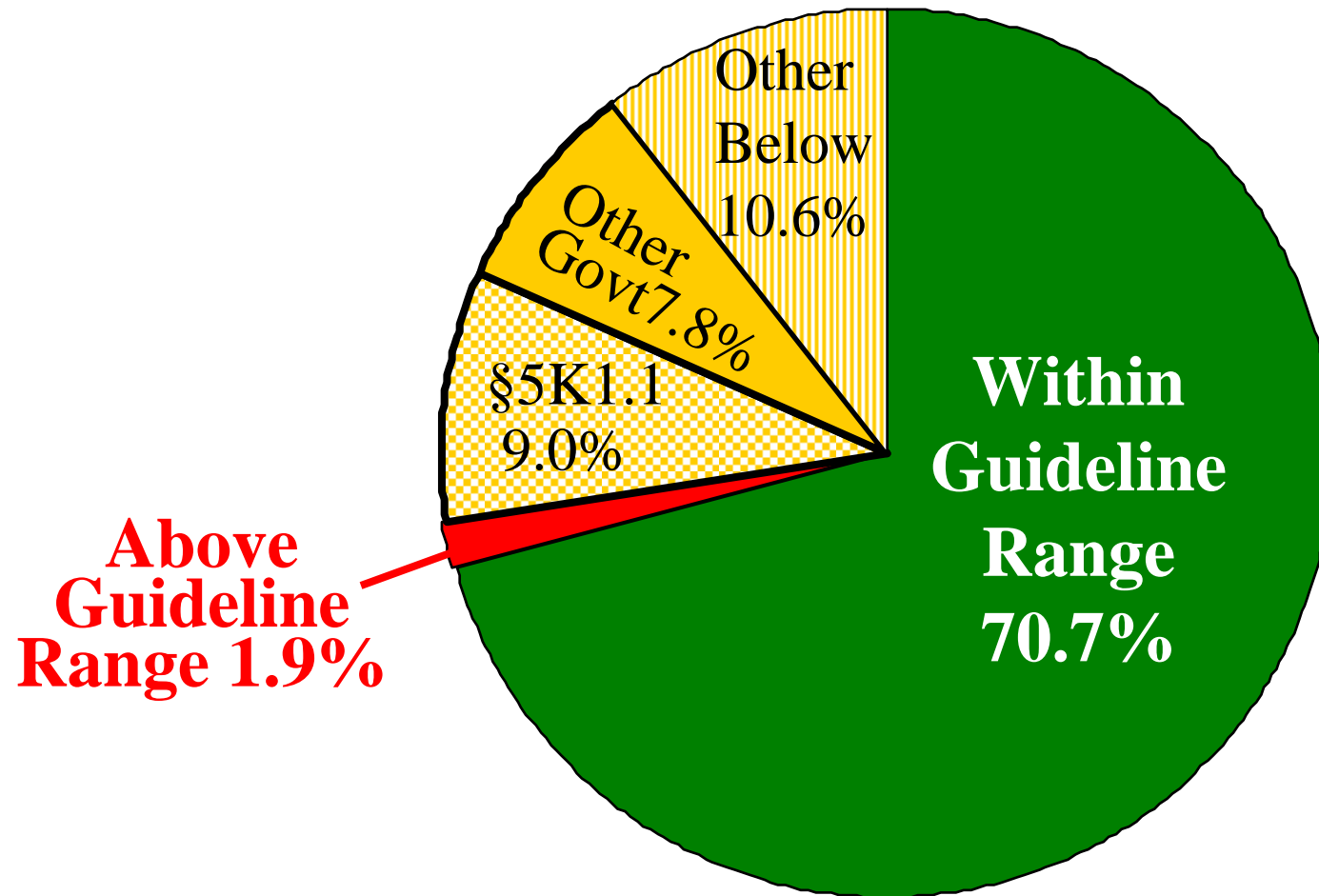
COMPARISON OF SENTENCE IMPOSED
AND POSITION RELATIVE TO THE GUIDELINE RANGE
Cases Sentenced Subsequent to *US v. Booker* with Data Available to USSC on June 6, 2005

	N	%
TOTAL[1]	**1,522**	**100.1**
WITHIN GUIDELINE RANGE	**935**	**61.4**
DEPARTURE ABOVE GUIDELINE RANGE	**4**	**0.3**
Upward Departure from the Guideline Range[2]	4	0.3
Upward Departure with Booker/18 USC §3553[3]	0	0.0
OTHERWISE ABOVE THE GUIDELINE RANGE	**23**	**1.6**
Above the Range with Booker/18 USC §3553[4]	13	0.9
All Remaining Cases Above the Guideline Range[5]	10	0.7
GOVERNMENT-SPONSORED BELOW RANGE	**371**	**24.4**
§5K1.1 Substantial Assistance Departure	344	22.6
§5K3.1 Early Disposition Program Departure	0	0.0
Government-Sponsored Departure[6]	27	1.8
DEPARTURE BELOW GUIDELINE RANGE	**29**	**1.9**
Downward Departure from the Guideline Range[2]	22	1.4
Downward Departure with Booker/18 USC §3553[3]	7	0.5
OTHERWISE BELOW THE GUIDELINE RANGE	**160**	**10.5**
Below the Range with Booker/18 USC §3553[4]	98	6.4
All Remaining Cases Below the Guideline Range[5]	62	4.1

[1]This table reflects the 1,579 cases sentenced subsequent to the *US v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by June 6, 2005. Of this total, there are 57 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

[2]All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual.

[3]All cases with imposed sentences outside of the guideline range citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual, and additionally mentioning either *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

[4]All cases with imposed sentences outside of the guideline range mentioning only *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

[5]Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to Booker/18 USC §3553. This category includes cases which cite departure reasons that are *not* affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual and cases which do not provide any reason for the sentence outside of the guideline range.

[6]Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; table prepared on July 11, 2005). Numbers may not sum to 100 percent due to rounding.

SIXTH CIRCUIT
Position of Sentences in Relation to Guideline Range
After *United States v. Booker* Decision
(Data Extracted as of June 6, 2005)

Other Govt 1.8%

Other Below 12.4%

§5K1.1 22.6%

Within Guideline Range 61.4%

Above Guideline Range 1.9%
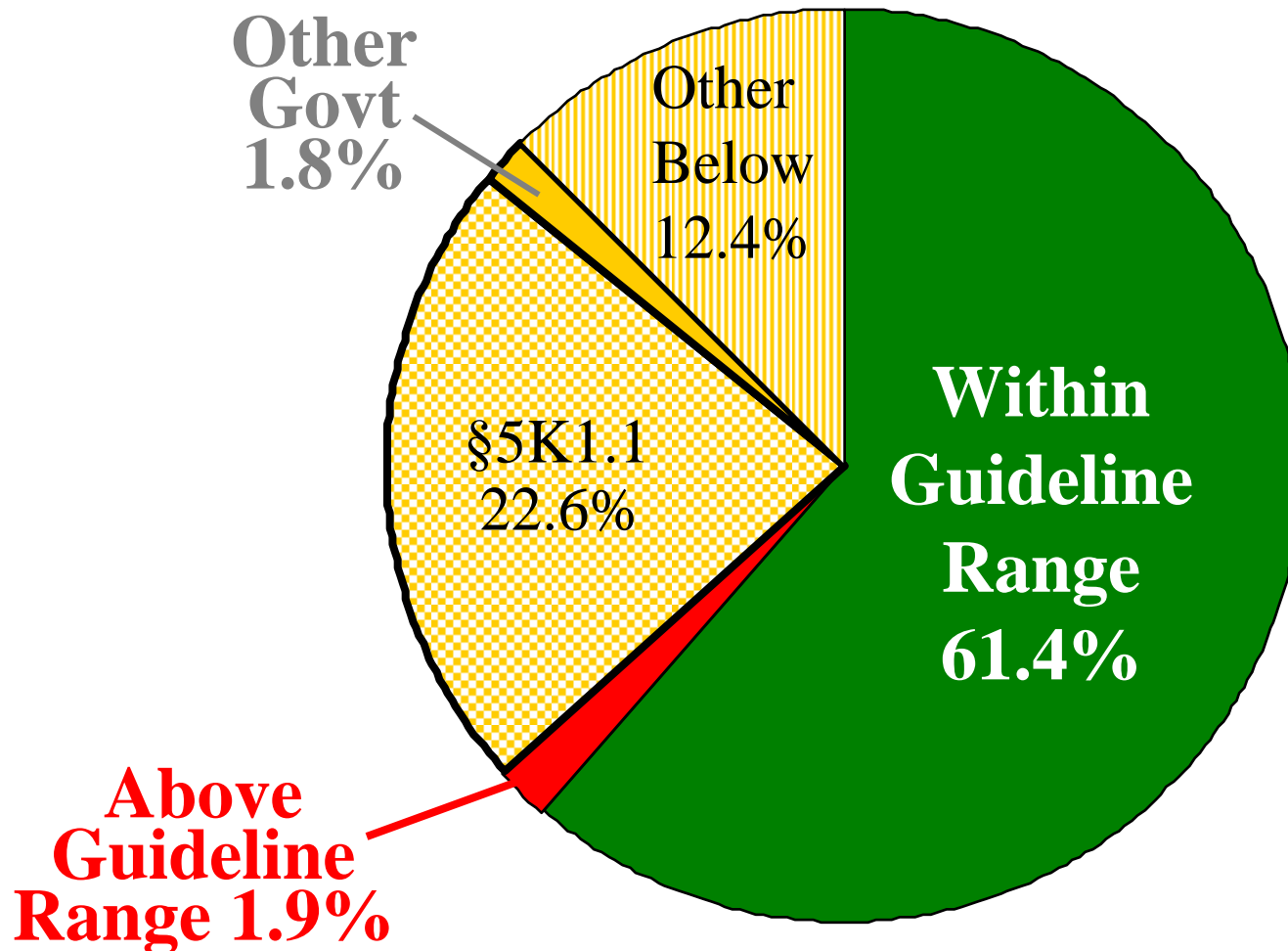
SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; prepared July 11, 2005).

SEVENTH CIRCUIT
COMPARISON OF SENTENCE IMPOSED
AND POSITION RELATIVE TO THE GUIDELINE RANGE
Cases Sentenced Subsequent to *US v. Booker* with Data Available to USSC on June 6, 2005

	N	%
TOTAL[1]	**914**	**99.9**
WITHIN GUIDELINE RANGE	**559**	**61.2**
DEPARTURE ABOVE GUIDELINE RANGE	**6**	**0.6**
Upward Departure from the Guideline Range[2]	5	0.5
Upward Departure with Booker/18 USC §3553[3]	1	0.1
OTHERWISE ABOVE THE GUIDELINE RANGE	**14**	**1.5**
Above the Range with Booker/18 USC §3553[4]	5	0.5
All Remaining Cases Above the Guideline Range[5]	9	1.0
GOVERNMENT-SPONSORED BELOW RANGE	**181**	**19.8**
§5K1.1 Substantial Assistance Departure	163	17.8
§5K3.1 Early Disposition Program Departure	2	0.2
Government-Sponsored Departure[6]	16	1.8
DEPARTURE BELOW GUIDELINE RANGE	**28**	**3.1**
Downward Departure from the Guideline Range[2]	17	1.9
Downward Departure with Booker/18 USC §3553[3]	11	1.2
OTHERWISE BELOW THE GUIDELINE RANGE	**126**	**13.8**
Below the Range with Booker/18 USC §3553[4]	77	8.4
All Remaining Cases Below the Guideline Range[5]	49	5.4

[1]This table reflects the 935 cases sentenced subsequent to the *US v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by June 6, 2005. Of this total, there are 21 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

[2]All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to*,* and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual.

[3]All cases with imposed sentences outside of the guideline range citing reasons for departure limited to*,* and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual, and additionally mentioning either *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

[4]All cases with imposed sentences outside of the guideline range mentioning only *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

[5]Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to Booker/18 USC §3553. This category includes cases which cite departure reasons that are ***not*** affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual and cases which do not provide any reason for the sentence outside of the guideline range.

[6]Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; table prepared on July 11, 2005). Numbers may not sum to 100 percent due to rounding.

SEVENTH CIRCUIT
Position of Sentences in Relation to Guideline Range
After *United States v. Booker* Decision
(Data Extracted as of June 6, 2005)

Other Govt 2.0%

Other Below 16.9%

§5K1.1 17.8%

Within Guideline Range 61.2%

Above Guideline Range 2.1%
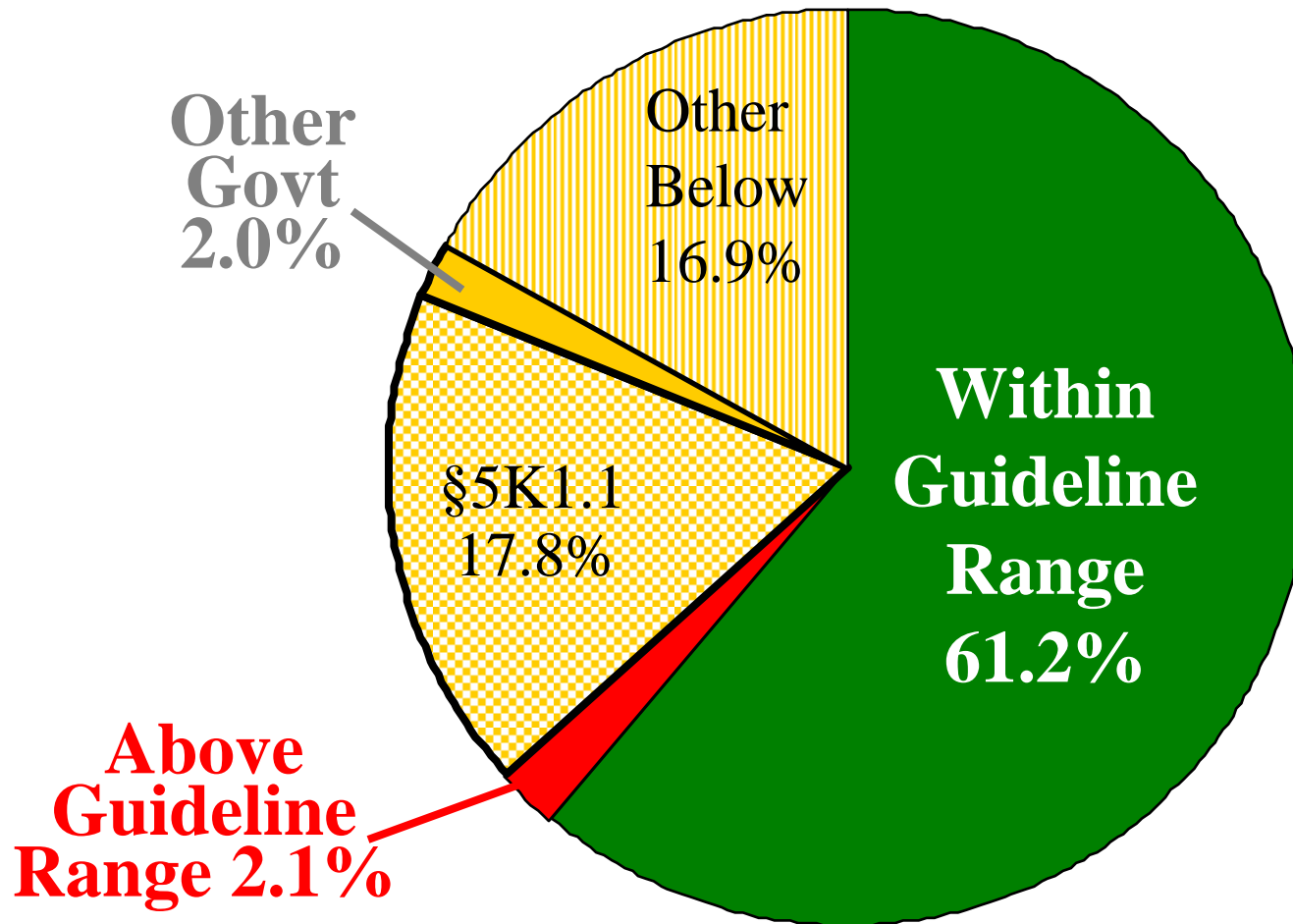
SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; prepared July 11, 2005).

EIGHTH CIRCUIT
COMPARISON OF SENTENCE IMPOSED
AND POSITION RELATIVE TO THE GUIDELINE RANGE
Cases Sentenced Subsequent to *US v. Booker* with Data Available to USSC on June 6, 2005

	N	%
TOTAL[1]	**1,642**	**100.1**
WITHIN GUIDELINE RANGE	**1,047**	**63.8**
DEPARTURE ABOVE GUIDELINE RANGE	**5**	**0.3**
Upward Departure from the Guideline Range[2]	1	0.1
Upward Departure with Booker/18 USC §3553[3]	4	0.2
OTHERWISE ABOVE THE GUIDELINE RANGE	**24**	**1.5**
Above the Range with Booker/18 USC §3553[4]	14	0.9
All Remaining Cases Above the Guideline Range[5]	10	0.6
GOVERNMENT-SPONSORED BELOW RANGE	**314**	**19.1**
§5K1.1 Substantial Assistance Departure	257	15.7
§5K3.1 Early Disposition Program Departure	12	0.7
Government-Sponsored Departure[6]	45	2.7
DEPARTURE BELOW GUIDELINE RANGE	**50**	**3.1**
Downward Departure from the Guideline Range[2]	34	2.1
Downward Departure with Booker/18 USC §3553[3]	16	1.0
OTHERWISE BELOW THE GUIDELINE RANGE	**202**	**12.3**
Below the Range with Booker/18 USC §3553[4]	137	8.3
All Remaining Cases Below the Guideline Range[5]	65	4.0

[1]This table reflects the 1,659 cases sentenced subsequent to the *US v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by June 6, 2005. Of this total, there are 17 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

[2]All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual.

[3]All cases with imposed sentences outside of the guideline range citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual, and additionally mentioning either *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

[4]All cases with imposed sentences outside of the guideline range mentioning only *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

[5]Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to Booker/18 USC §3553. This category includes cases which cite departure reasons that are *not* affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual and cases which do not provide any reason for the sentence outside of the guideline range.

[6]Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; table prepared on July 11, 2005). Numbers may not sum to 100 percent due to rounding.

EIGHTH CIRCUIT
Position of Sentences in Relation to Guideline Range
After *United States v. Booker* Decision
(Data Extracted as of June 6, 2005)

Other Govt 3.4%

Other Below 15.4%

§5K1.1 15.7%

Above Guideline Range 1.8%

Within Guideline Range 63.8%
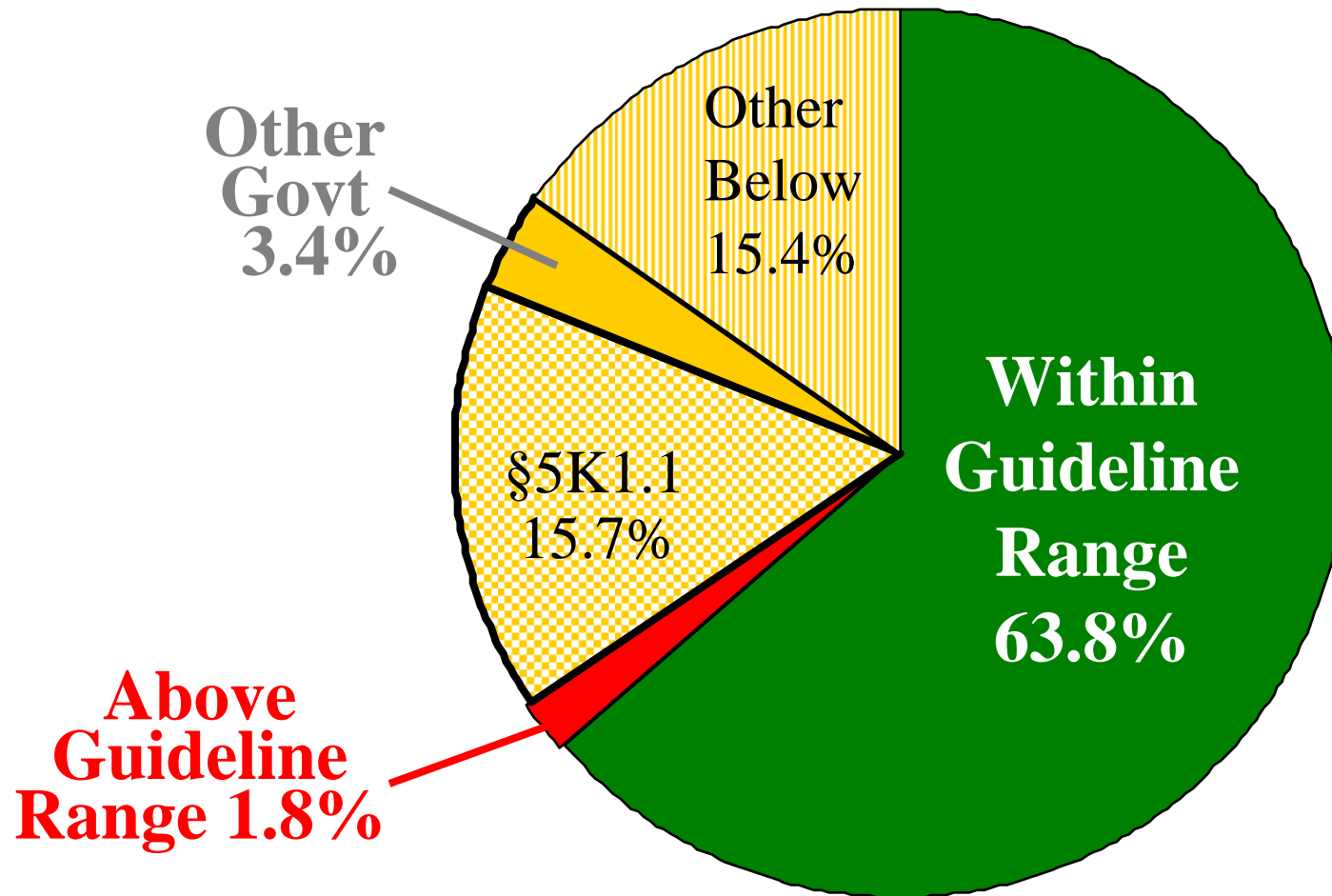
SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; prepared July 11, 2005).

NINTH CIRCUIT
COMPARISON OF SENTENCE IMPOSED
AND POSITION RELATIVE TO THE GUIDELINE RANGE
Cases Sentenced Subsequent to *US v. Booker* with Data Available to USSC on June 6, 2005

	N	%
TOTAL[1]	**3,499**	**99.9**
WITHIN GUIDELINE RANGE	**1,712**	**48.9**
DEPARTURE ABOVE GUIDELINE RANGE	**13**	**0.4**
Upward Departure from the Guideline Range[2]	13	0.4
Upward Departure with Booker/18 USC §3553[3]	0	0.0
OTHERWISE ABOVE THE GUIDELINE RANGE	**51**	**1.5**
Above the Range with Booker/18 USC §3553[4]	9	0.3
All Remaining Cases Above the Guideline Range[5]	42	1.2
GOVERNMENT-SPONSORED BELOW RANGE	**1,293**	**36.9**
§5K1.1 Substantial Assistance Departure	362	10.3
§5K3.1 Early Disposition Program Departure	798	22.8
Government-Sponsored Departure[6]	133	3.8
DEPARTURE BELOW GUIDELINE RANGE	**126**	**3.6**
Downward Departure from the Guideline Range[2]	115	3.3
Downward Departure with Booker/18 USC §3553[3]	11	0.3
OTHERWISE BELOW THE GUIDELINE RANGE	**304**	**8.7**
Below the Range with Booker/18 USC §3553[4]	156	4.5
All Remaining Cases Below the Guideline Range[5]	148	4.2

[1]This table reflects the 3,714 cases sentenced subsequent to the *US v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by June 6, 2005. Of this total, there are 215 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

[2]All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to*,* and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual.

[3]All cases with imposed sentences outside of the guideline range citing reasons for departure limited to*,* and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual, and additionally mentioning either *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

[4]All cases with imposed sentences outside of the guideline range mentioning only *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

[5]Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to Booker/18 USC §3553. This category includes cases which cite departure reasons that are *not* affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual and cases which do not provide any reason for the sentence outside of the guideline range.

[6]Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; table prepared on July 11, 2005). Numbers may not sum to 100 percent due to rounding.

NINTH CIRCUIT
Position of Sentences in Relation to Guideline Range
After *United States v. Booker* Decision
(Data Extracted as of June 6, 2005)

Other Below 12.3%

Other Govt 26.6%

Within Guideline Range 48.9%

§5K1.1 10.3%

Above Guideline Range 1.9%
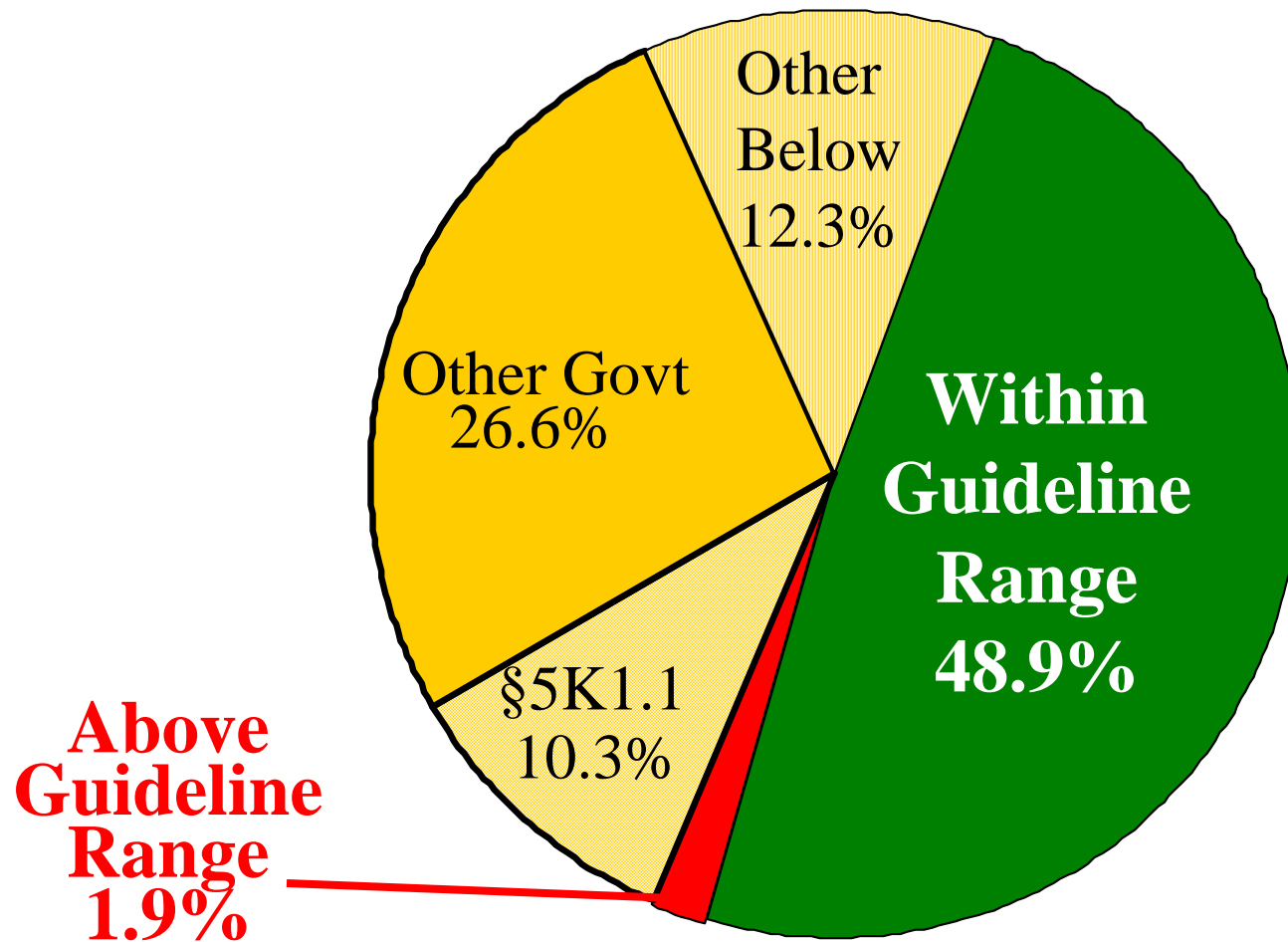
SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; prepared July 11, 2005).

TENTH CIRCUIT
COMPARISON OF SENTENCE IMPOSED
AND POSITION RELATIVE TO THE GUIDELINE RANGE
Cases Sentenced Subsequent to *US v. Booker* with Data Available to USSC on June 6, 2005

	N	%
TOTAL[1]	**1,614**	**100.0**
WITHIN GUIDELINE RANGE	**1,073**	**66.5**
DEPARTURE ABOVE GUIDELINE RANGE	**1**	**0.1**
Upward Departure from the Guideline Range[2]	1	0.1
Upward Departure with Booker/18 USC §3553[3]	0	0.0
OTHERWISE ABOVE THE GUIDELINE RANGE	**15**	**0.9**
Above the Range with Booker/18 USC §3553[4]	10	0.6
All Remaining Cases Above the Guideline Range[5]	5	0.3
GOVERNMENT-SPONSORED BELOW RANGE	**366**	**22.7**
§5K1.1 Substantial Assistance Departure	179	11.1
§5K3.1 Early Disposition Program Departure	96	5.9
Government-Sponsored Departure[6]	91	5.6
DEPARTURE BELOW GUIDELINE RANGE	**39**	**2.4**
Downward Departure from the Guideline Range[2]	35	2.2
Downward Departure with Booker/18 USC §3553[3]	4	0.2
OTHERWISE BELOW THE GUIDELINE RANGE	**120**	**7.4**
Below the Range with Booker/18 USC §3553[4]	77	4.8
All Remaining Cases Below the Guideline Range[5]	43	2.7

[1]This table reflects the 1,659 cases sentenced subsequent to the *US v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by June 6, 2005. Of this total, there are 45 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

[2]All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to*,* and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual.

[3]All cases with imposed sentences outside of the guideline range citing reasons for departure limited to*,* and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual, and additionally mentioning either *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

[4]All cases with imposed sentences outside of the guideline range mentioning only *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

[5]Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to Booker/18 USC §3553. This category includes cases which cite departure reasons that are *not* affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual and cases which do not provide any reason for the sentence outside of the guideline range.

[6]Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; table prepared on July 11, 2005). Numbers may not sum to 100 percent due to rounding.

TENTH CIRCUIT
Position of Sentences in Relation to Guideline Range
After *United States v. Booker* Decision
(Data Extracted as of June 6, 2005)

Other Below 9.8%

Other Govt 11.5%

§5K1.1 11.1%

Within Guideline Range 66.5%

Above Guideline Range 1.0%
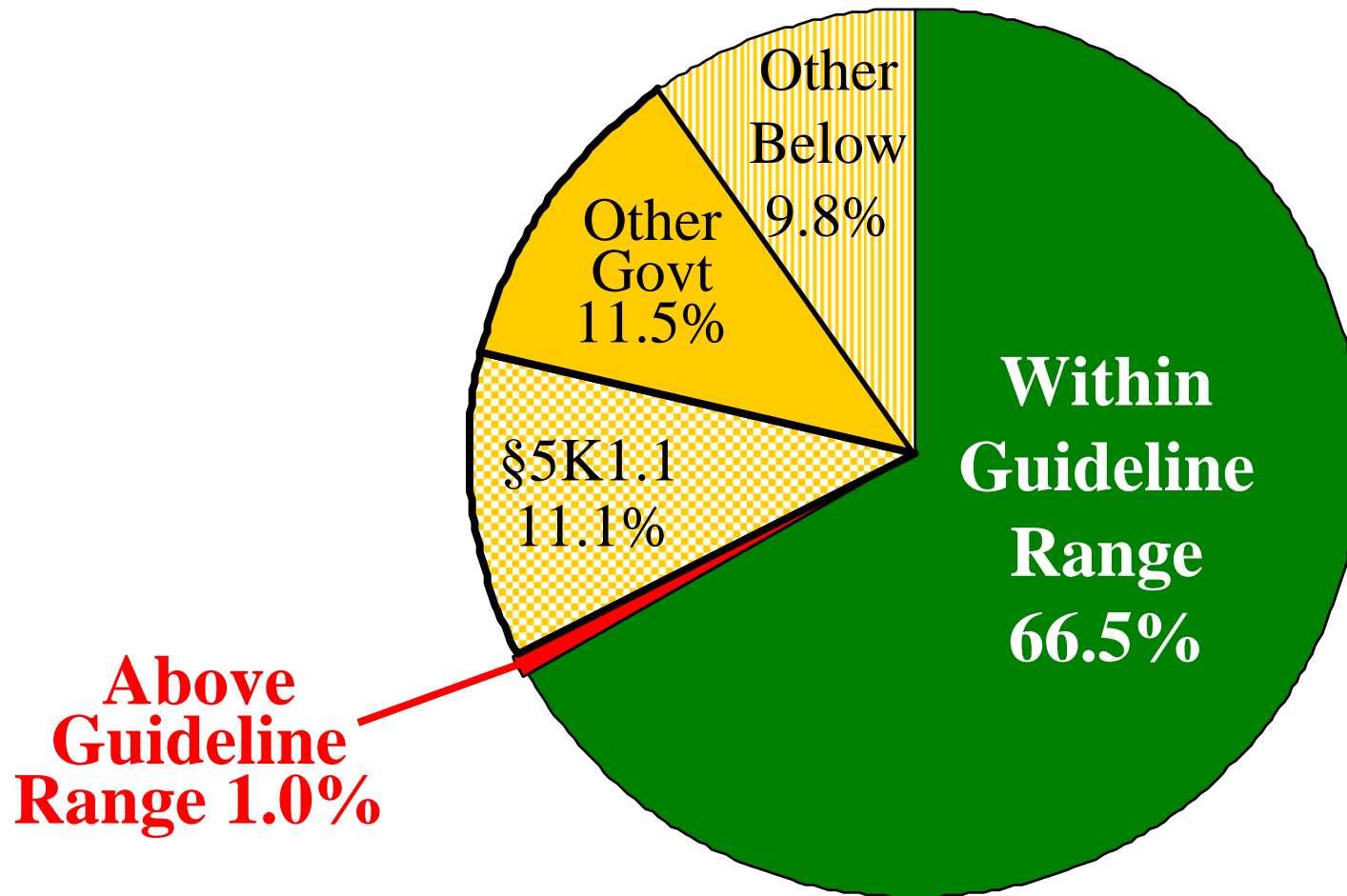
SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; prepared July 11, 2005).

ELEVENTH CIRCUIT
COMPARISON OF SENTENCE IMPOSED
AND POSITION RELATIVE TO THE GUIDELINE RANGE
Cases Sentenced Subsequent to *US v. Booker* with Data Available to USSC on June 6, 2005

	N	%
TOTAL[1]	**2,009**	**100.0**
WITHIN GUIDELINE RANGE	**1,346**	**67.0**
DEPARTURE ABOVE GUIDELINE RANGE	**12**	**0.6**
Upward Departure from the Guideline Range[2]	9	0.4
Upward Departure with Booker/18 USC §3553[3]	3	0.1
OTHERWISE ABOVE THE GUIDELINE RANGE	**34**	**1.7**
Above the Range with Booker/18 USC §3553[4]	17	0.8
All Remaining Cases Above the Guideline Range[5]	17	0.8
GOVERNMENT-SPONSORED BELOW RANGE	**359**	**17.9**
§5K1.1 Substantial Assistance Departure	347	17.3
§5K3.1 Early Disposition Program Departure	1	0.0
Government-Sponsored Departure[6]	11	0.5
DEPARTURE BELOW GUIDELINE RANGE	**52**	**2.6**
Downward Departure from the Guideline Range[2]	38	1.9
Downward Departure with Booker/18 USC §3553[3]	14	0.7
OTHERWISE BELOW THE GUIDELINE RANGE	**206**	**10.3**
Below the Range with Booker/18 USC §3553[4]	125	6.2
All Remaining Cases Below the Guideline Range[5]	81	4.0

[1]This table reflects the 2,109 cases sentenced subsequent to the *US v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by June 6, 2005. Of this total, there are 100 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

[2]All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to*,* and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal <u>Guidelines Manual</u>.

[3]All cases with imposed sentences outside of the guideline range citing reasons for departure limited to*,* and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal <u>Guidelines Manual</u>, and additionally mentioning either *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

[4]All cases with imposed sentences outside of the guideline range mentioning only *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

[5]Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to Booker/18 USC §3553. This category includes cases which cite departure reasons that are ***not*** affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal <u>Guidelines Manual</u> and cases which do not provide any reason for the sentence outside of the guideline range.

[6]Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; table prepared on July 11, 2005). Numbers may not sum to 100 percent due to rounding.

ELEVENTH CIRCUIT
Position of Sentences in Relation to Guideline Range
After *United States v. Booker* Decision
(Data Extracted as of June 6, 2005)

Other Govt 0.5%

Other Below 12.9%

§5K1.1 17.3%

Within Guideline Range 67.0%

Above Guideline Range 2.3%
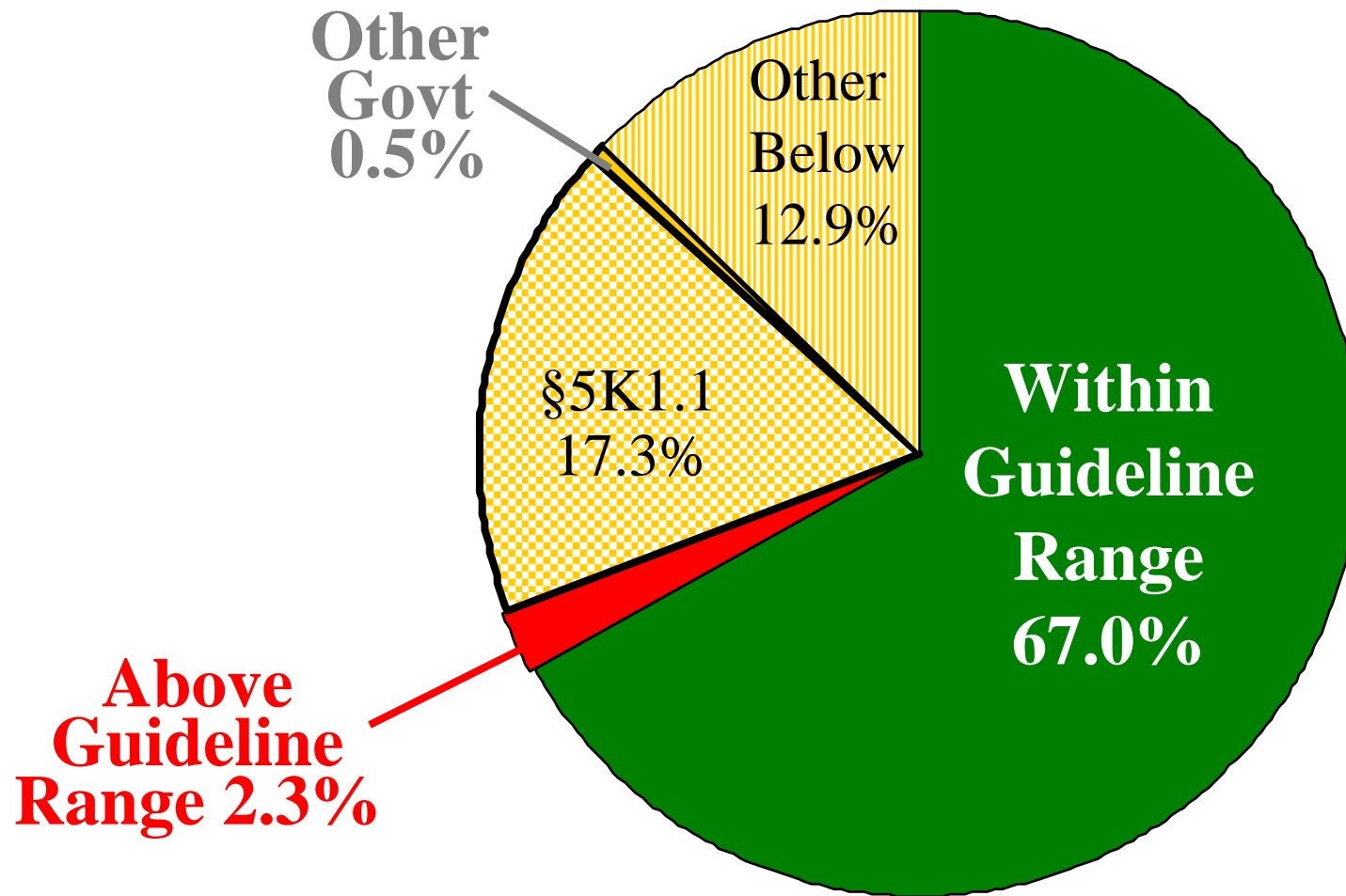
SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; prepared July 11, 2005).

U.S. SENTENCING COMMISSION
SPECIAL POST-BOOKER CODING PROJECT
DATA EXTRACTION DATE: JUNE 6, 2005

III. MOST FREQUENTLY APPLIED GUIDELINES

COMPARISON OF SENTENCE IMPOSED
AND POSITION RELATIVE TO THE GUIDELINE RANGE
Cases Sentenced Subsequent to *US v. Booker* with Data Available to USSC on June 6, 2005

			Four Most Frequently Applied Primary Guidelines							
	All Cases		§2D1.1 Drug Trafficking		§2L1.2 Unlawful Entry		§2K2.1 Firearms		§2B1.1 Theft and Fraud	
	N	%	N	%	N	%	N	%	N	%
TOTAL[1]	**20,369**	**100.1**	**7,120**	**100.1**	**3,093**	**100.0**	**2,092**	**100.0**	**1,993**	**100.1**
WITHIN GUIDELINE RANGE	**12,560**	**61.7**	**3,847**	**54.0**	**1,744**	**56.4**	**1,447**	**69.2**	**1,396**	**70.0**
DEPARTURE ABOVE GUIDELINE	**67**	**0.3**	**5**	**0.1**	**7**	**0.2**	**11**	**0.5**	**11**	**0.6**
Upward Departure from the Guideline Range[2]	49	0.2	5	0.1	4	0.1	9	0.4	7	0.4
Upward Departure with Booker/18 USC §3553[3]	18	0.1	0	0.0	3	0.1	2	0.1	4	0.2
OTHERWISE ABOVE THE RANGE	**298**	**1.5**	**41**	**0.6**	**38**	**1.2**	**37**	**1.8**	**52**	**2.6**
Above the Range with Booker/18 USC §3553[4]	144	0.7	19	0.3	25	0.8	16	0.8	26	1.3
All Remaining Cases Above the Guideline Range[5]	154	0.8	22	0.3	13	0.4	21	1.0	26	1.3
GOVERNMENT BELOW GUIDELINE	**4,693**	**23.0**	**2,258**	**31.8**	**970**	**31.4**	**268**	**12.9**	**218**	**11.0**
§5K1.1 Substantial Assistance Departure	3,019	14.8	1,857	26.1	24	0.8	219	10.5	183	9.2
§5K3.1 Early Disposition Program Departure	1,229	6.0	260	3.7	844	27.3	8	0.4	3	0.2
Government-Sponsored Departure[6]	445	2.2	141	2.0	102	3.3	41	2.0	32	1.6
DEPARTURE BELOW GUIDELINE	**598**	**3.0**	**180**	**2.5**	**100**	**3.3**	**83**	**3.9**	**60**	**3.0**
Downward Departure from the Guideline Range[2]	461	2.3	144	2.0	79	2.6	57	2.7	46	2.3
Downward Departure with Booker/18USC §3553[3]	137	0.7	36	0.5	21	0.7	26	1.2	14	0.7
OTHERWISE BELOW THE RANGE	**2,153**	**10.6**	**789**	**11.1**	**234**	**7.5**	**246**	**11.8**	**256**	**12.8**
Below the Range with Booker/18 USC §3553[4]	1,303	6.4	518	7.3	159	5.1	152	7.3	134	6.7
All Remaining Cases Below the Guideline Range[5]	850	4.2	271	3.8	75	2.4	94	4.5	122	6.1

[1]This table reflects the 21,025 cases sentenced subsequent to the *US v. Booker* decision on January 12, 2005, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by June 6, 2005. Of this total, there are 656 cases excluded for one of two general reasons. Some excluded cases involve certain Class A misdemeanors or other offenses which do not reference a sentencing guideline. Other excluded cases have information missing from the submitted documents that prevents the comparison of the sentence and the guideline range. As missing documents are received, subsequent U.S. Sentencing Commission data releases will incorporate the new information.

[2]All cases with imposed sentences outside of the guideline range and citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual.

[3]All cases with imposed sentences outside of the guideline range citing reasons for departure limited to, and affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual, and additionally mentioning either *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

[4]All cases with imposed sentences outside of the guideline range mentioning only *US v. Booker*, 18 USC §3553, or related factors as a reason for a sentence outside of the guideline range.

[5]Cases with imposed sentences outside of the guideline range that do not fall into the three previous categories. Based on the information submitted on the Statement of Reasons, these cases cannot be classified as a guideline departure, or as a sentence outside the guideline range pursuant to Booker/18 USC §3553. This category includes cases which cite departure reasons that are *not* affirmatively and specifically identified in the provisions, policy statements, or commentary of the federal Guidelines Manual and cases which do not provide any reason for the sentence outside of the guideline range.

[6]Cases with a reason for departure indicating that the prosecution initiates, proposes, or stipulates to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; table prepared on July 11, 2005). Numbers may not sum to 100 percent due to rounding.

Post-Booker: Position of Sentences in Relation to Guideline Range
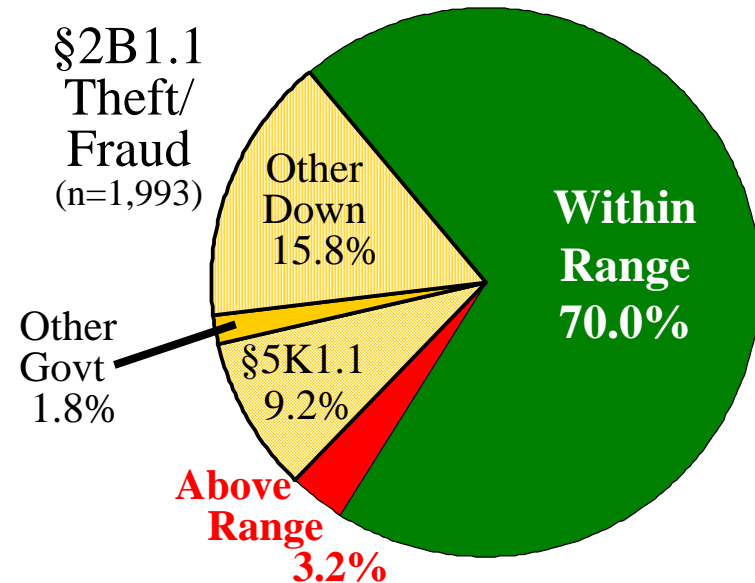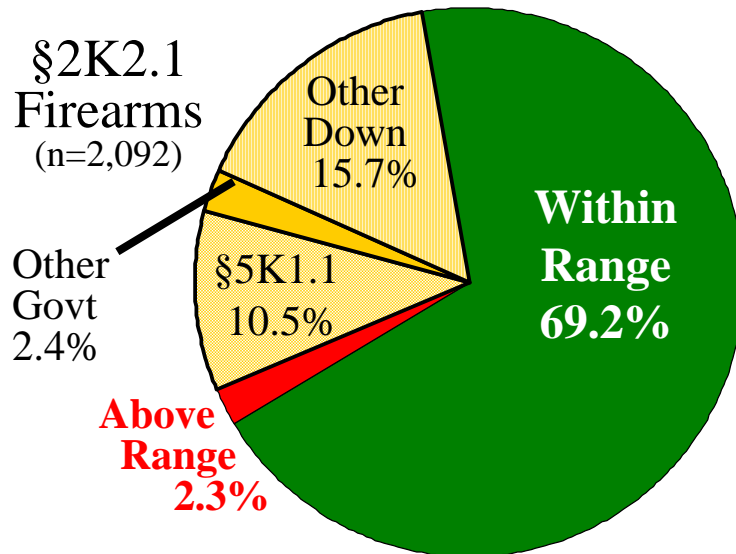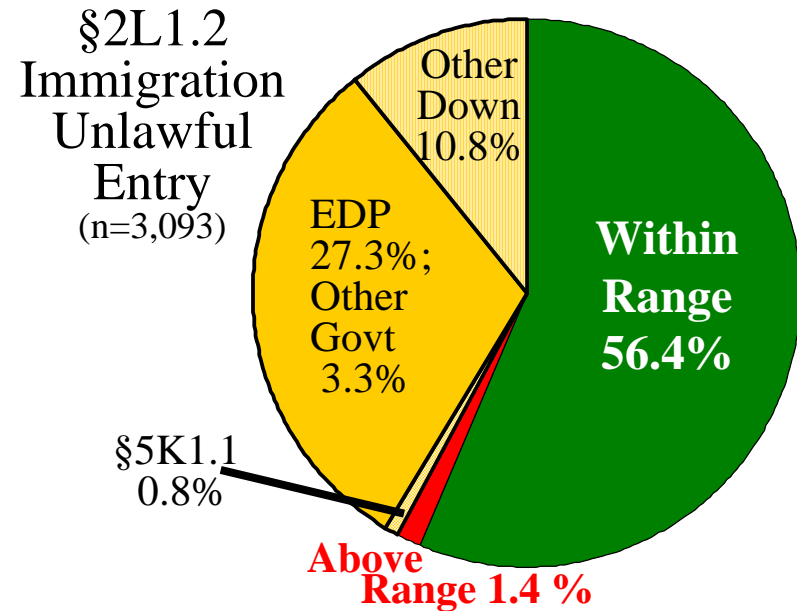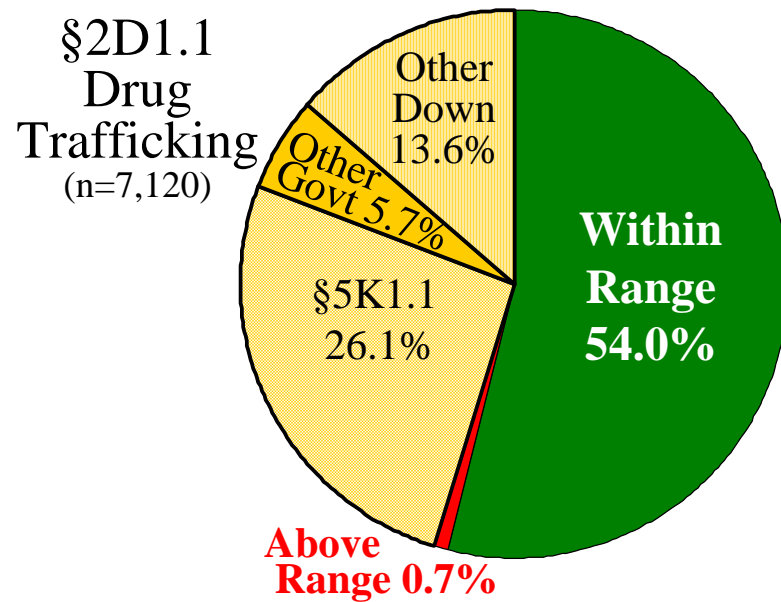
§2D1.1
Drug
Trafficking
(n=7,120)

Other Down 13.6%

Other Govt 5.7%

§5K1.1 26.1%

Within Range 54.0%

Above Range 0.7%

§2L1.2
Immigration
Unlawful
Entry
(n=3,093)

Other Down 10.8%

EDP 27.3%; Other Govt 3.3%

§5K1.1 0.8%

Within Range 56.4%

Above Range 1.4 %

§2K2.1
Firearms
(n=2,092)

Other Down 15.7%

Other Govt 2.4%

§5K1.1 10.5%

Within Range 69.2%

Above Range 2.3%

§2B1.1
Theft/
Fraud
(n=1,993)

Other Down 15.8%

Other Govt 1.8%

§5K1.1 9.2%

Within Range 70.0%

Above Range 3.2%

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extraction on June 6, 2005; prepared July 11, 2005).

U.S. SENTENCING COMMISSION
SPECIAL POST-BOOKER CODING PROJECT
DATA EXTRACTION DATE: JUNE 6, 2005

IV. GUIDELINE APPLIED AND PLEA/TRIAL STATUS

GUIDELINE OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY[1]
Special Post-Booker Coding Project (Data Extracted 06/06/05)

PRIMARY OFFENSE	Number	Percent
TOTAL	**21,024**	**100.0**
Murder	21	0.1
Manslaughter	17	0.1
Kidnapping/Hostage Taking	13	0.1
Sexual Abuse	98	0.5
Assault	175	0.8
Robbery	426	2.0
Arson	13	0.1
Drugs - Trafficking	7,452	35.4
Drugs - Communication Facility	106	0.5
Drugs - Simple Possession	174	0.8
Firearms	2,620	12.5
Burglary/B&E	12	0.1
Auto Theft	28	0.1
Larceny	558	2.7
Fraud	1,899	9.0
Embezzlement	156	0.7
Forgery/Counterfeiting	271	1.3
Bribery	72	0.3
Tax	177	0.8
Money Laundering	271	1.3
Racketeering/Extortion	185	0.9
Gambling/Lottery	31	0.1
Civil Rights	16	0.1
Immigration	5,043	24.0
Pornography/Prostitution	366	1.7
Prison Offenses	114	0.5
Administration of Justice Offenses	291	1.4
Environmental/Wildlife	51	0.2
National Defense	4	0.0
Antitrust	5	0.0
Food & Drug	18	0.1
Other Miscellaneous Offenses	341	1.6

[1]Of the 21,025 cases, one was excluded due to missing information on primary offense category.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extracted June 6, 2005; table prepared July 11, 2005). Percents may not sum to 100 percent due to rounding.

OFFENDERS SENTENCED FOR EACH CHAPTER TWO GUIDELINE[1]
Special Post-Booker Coding Project (Data Extracted 06/06/05)

Guideline	As Primary Guideline		As Any Guideline		Guideline	As Primary Guideline		As Any Guideline	
	n	%	n	%		n	%	n	%
2A1.1	44	0.2	47	0.2	2D1.8	17	0.1	36	0.2
2A1.2	9	0.0	13	0.1	2D1.9	0	0.0	0	0.0
2A1.3	3	0.0	3	0.0	2D1.10	7	0.0	7	0.0
2A1.4	14	0.1	14	0.1	2D1.11	55	0.3	66	0.3
2A1.5	4	0.0	10	0.0	2D1.12	11	0.1	23	0.1
2A2.1	6	0.0	12	0.1	2D1.13	0	0.0	0	0.0
2A2.2	109	0.6	124	0.6	2D2.1	121	0.6	153	0.7
2A2.3	8	0.0	10	0.0	2D2.2	10	0.1	13	0.1
2A2.4	36	0.2	45	0.2	2D2.3	1	0.0	1	0.0
2A3.1	48	0.2	49	0.2	2D3.1	0	0.0	0	0.0
2A3.2	55	0.3	65	0.3	2D3.2	0	0.0	0	0.0
2A3.3	3	0.0	4	0.0	2D3.3	0	0.0	0	0.0
2A3.4	12	0.1	15	0.1	2D3.4	0	0.0	0	0.0
2A4.1	22	0.1	27	0.1	2D3.5	0	0.0	0	0.0
2A4.2	1	0.0	1	0.0	2E1.1	9	0.0	33	0.2
2A5.1	0	0.0	0	0.0	2E1.2	4	0.0	37	0.2
2A5.2	0	0.0	0	0.0	2E1.3	0	0.0	4	0.0
2A5.3	0	0.0	0	0.0	2E1.4	5	0.0	6	0.0
2A6.1	54	0.3	57	0.3	2E1.5	0	0.0	0	0.0
2A6.2	2	0.0	5	0.0	2E2.1	11	0.1	15	0.1
2B1.1	2,051	10.5	2,245	10.5	2E3.1	29	0.1	36	0.2
2B1.2	0	0.0	0	0.0	2E3.2	0	0.0	0	0.0
2B1.3	2	0.0	2	0.0	2E3.3	0	0.0	0	0.0
2B1.4	0	0.0	0	0.0	2E4.1	9	0.0	17	0.1
2B1.5	1	0.0	1	0.0	2E5.1	6	0.0	9	0.0
2B2.1	18	0.1	19	0.1	2E5.2	0	0.0	0	0.0
2B2.2	0	0.0	0	0.0	2E5.3	1	0.0	4	0.0
2B2.3	1	0.0	1	0.0	2E5.4	0	0.0	0	0.0
2B3.1	588	3.0	620	2.9	2E5.5	0	0.0	0	0.0
2B3.2	11	0.1	23	0.1	2E5.6	0	0.0	0	0.0
2B3.3	6	0.0	11	0.1	2F1.1	401	2.1	432	2.0
2B4.1	20	0.1	20	0.1	2F1.2	1	0.0	1	0.0
2B5.1	117	0.6	127	0.6	2G1.1	27	0.1	50	0.2
2B5.2	0	0.0	0	0.0	2G1.2	0	0.0	0	0.0
2B5.3	44	0.2	53	0.2	2G1.3	5	0.0	5	0.0
2B5.4	0	0.0	0	0.0	2G2.1	29	0.1	34	0.2
2B6.1	5	0.0	5	0.0	2G2.2	146	0.7	155	0.7
2C1.1	75	0.4	84	0.4	2G2.3	0	0.0	0	0.0
2C1.2	10	0.1	10	0.0	2G2.4	132	0.7	154	0.7
2C1.3	2	0.0	2	0.0	2G2.5	0	0.0	0	0.0
2C1.4	0	0.0	0	0.0	2G3.1	6	0.0	7	0.0
2C1.5	0	0.0	0	0.0	2G3.2	0	0.0	0	0.0
2C1.6	0	0.0	0	0.0	2H1.1	10	0.1	10	0.0
2C1.7	10	0.1	13	0.1	2H1.2	0	0.0	0	0.0
2D1.1	7,231	37.0	7,575	35.3	2H1.3	0	0.0	0	0.0
2D1.2	98	0.5	104	0.5	2H1.4	0	0.0	0	0.0
2D1.3	0	0.0	0	0.0	2H1.5	0	0.0	0	0.0
2D1.4	0	0.0	0	0.0	2H2.1	4	0.0	5	0.0
2D1.5	8	0.0	8	0.0	2H3.1	3	0.0	4	0.0
2D1.6	7	0.0	55	0.3	2H3.2	0	0.0	0	0.0
2D1.7	6	0.0	7	0.0	2H3.3	4	0.0	7	0.0

Guideline	As Primary Guideline		As Any Guideline		Guideline	As Primary Guideline		As Any Guideline	
	n	%	n	%		n	%	n	%
2H4.1	1	0.0	1	0.0	2M3.9	0	0.0	0	0.0
2H4.2	0	0.0	0	0.0	2M4.1	0	0.0	0	0.0
2J1.1	0	0.0	6	0.0	2M5.1	2	0.0	2	0.0
2J1.2	39	0.2	57	0.3	2M5.2	5	0.0	6	0.0
2J1.3	20	0.1	32	0.1	2M6.1	3	0.0	3	0.0
2J1.4	6	0.0	12	0.1	2M6.2	0	0.0	0	0.0
2J1.5	1	0.0	1	0.0	2N1.1	0	0.0	0	0.0
2J1.6	18	0.1	25	0.1	2N1.2	0	0.0	0	0.0
2J1.7	47	0.2	50	0.2	2N1.3	0	0.0	0	0.0
2J1.8	0	0.0	0	0.0	2N2.1	10	0.1	21	0.1
2J1.9	0	0.0	0	0.0	2N3.1	1	0.0	1	0.0
2K1.1	1	0.0	1	0.0	2P1.1	67	0.3	78	0.4
2K1.2	0	0.0	0	0.0	2P1.2	32	0.2	39	0.2
2K1.3	15	0.1	16	0.1	2P1.3	6	0.0	6	0.0
2K1.4	12	0.1	17	0.1	2P1.4	0	0.0	0	0.0
2K1.5	7	0.0	7	0.0	2Q1.1	0	0.0	0	0.0
2K1.6	1	0.0	1	0.0	2Q1.2	13	0.1	14	0.1
2K1.7	0	0.0	0	0.0	2Q1.3	20	0.1	20	0.1
2K2.1	2,125	10.9	2,311	10.8	2Q1.4	0	0.0	0	0.0
2K2.2	0	0.0	0	0.0	2Q1.5	0	0.0	0	0.0
2K2.3	0	0.0	0	0.0	2Q1.6	0	0.0	0	0.0
2K2.4	1	0.0	2	0.0	2Q2.1	40	0.2	41	0.2
2K2.5	5	0.0	5	0.0	2Q2.2	0	0.0	0	0.0
2K2.6	1	0.0	1	0.0	2R1.1	6	0.0	7	0.0
2K3.1	0	0.0	0	0.0	2S1.1	267	1.4	323	1.5
2K3.2	0	0.0	0	0.0	2S1.2	8	0.0	12	0.1
2L1.1	895	4.6	922	4.3	2S1.3	71	0.4	88	0.4
2L1.2	3,123	16.0	3,158	14.7	2S1.4	0	0.0	0	0.0
2L1.3	0	0.0	0	0.0	2T1.1	168	0.9	202	0.9
2L2.1	150	0.8	162	0.8	2T1.2	0	0.0	0	0.0
2L2.2	284	1.5	303	1.4	2T1.3	1	0.0	1	0.0
2L2.3	0	0.0	0	0.0	2T1.4	33	0.2	36	0.2
2L2.4	0	0.0	0	0.0	2T1.5	0	0.0	0	0.0
2L2.5	0	0.0	0	0.0	2T1.6	4	0.0	5	0.0
2M1.1	0	0.0	0	0.0	2T1.7	0	0.0	0	0.0
2M2.1	0	0.0	0	0.0	2T1.8	0	0.0	0	0.0
2M2.2	0	0.0	0	0.0	2T1.9	2	0.0	5	0.0
2M2.3	0	0.0	0	0.0	2T2.1	0	0.0	0	0.0
2M2.4	0	0.0	0	0.0	2T2.2	0	0.0	0	0.0
2M3.1	0	0.0	0	0.0	2T3.1	14	0.1	17	0.1
2M3.2	0	0.0	0	0.0	2T3.2	0	0.0	0	0.0
2M3.3	1	0.0	1	0.0	2T4.1	0	0.0	0	0.0
2M3.4	0	0.0	0	0.0	2X1.1	36	0.2	425	2.0
2M3.5	0	0.0	0	0.0	2X2.1	0	0.0	19	0.1
2M3.6	0	0.0	0	0.0	2X3.1	40	0.2	45	0.2
2M3.7	0	0.0	0	0.0	2X4.1	120	0.6	126	0.6
2M3.8	0	0.0	0	0.0	2X5.1	0	0.0	10	0.0

Total number of guidelines applied: **21,453**

Number of cases with at least one guideline applied: **19,527**

[1]Of the 21,025 cases, 1,498 were excluded due to missing guideline applied. The total for any guideline can exceed that for primary guideline because a case can have several guidelines applied, but only one primary guideline.

GUILTY PLEAS AND TRIALS IN EACH CIRCUIT AND DISTRICT [1]
Special Post-Booker Coding Project (Data Extracted 06/06/05)

CIRCUIT		PLEA		TRIAL	
District	TOTAL	Number	Percent	Number	Percent
TOTAL	21,005	19,814	94.3	1,191	5.7
D.C. CIRCUIT	**168**	**141**	**83.9**	**27**	**16.1**
District of Columbia	**168**	141	83.9	27	16.1
FIRST CIRCUIT	**484**	**443**	**91.5**	**41**	**8.5**
Maine	**83**	76	91.6	7	8.4
Massachusetts	**132**	118	89.4	14	10.6
New Hampshire	**67**	64	95.5	3	4.5
Puerto Rico	**162**	149	92.0	13	8.0
Rhode Island	**40**	36	90.0	4	10.0
SECOND CIRCUIT	**898**	**849**	**94.5**	**49**	**5.5**
Connecticut	**106**	100	94.3	6	5.7
New York					
Eastern	**386**	359	93.0	27	7.0
Northern	**106**	102	96.2	4	3.8
Southern	**50**	44	88.0	6	12.0
Western	**165**	160	97.0	5	3.0
Vermont	**85**	84	98.8	1	1.2
THIRD CIRCUIT	**1,132**	**1,034**	**91.3**	**98**	**8.7**
Delaware	**65**	54	83.1	11	16.9
New Jersey	**347**	329	94.8	18	5.2
Pennsylvania					
Eastern	**351**	303	86.3	48	13.7
Middle	**214**	211	98.6	3	1.4
Western	**129**	114	88.4	15	11.6
Virgin Islands	**26**	23	88.5	3	11.5
FOURTH CIRCUIT	**1,946**	**1,837**	**94.4**	**109**	**5.6**
Maryland	**236**	214	90.7	22	9.3
North Carolina					
Eastern	**197**	186	94.4	11	5.6
Middle	**150**	144	96.0	6	4.0
Western	**143**	135	94.4	8	5.6
South Carolina	**310**	296	95.5	14	4.5
Virginia					
Eastern	**500**	470	94.0	30	6.0
Western	**196**	191	97.4	5	2.6
West Virginia					
Northern	**88**	85	96.6	3	3.4
Southern	**126**	116	92.1	10	7.9

CIRCUIT		PLEA		TRIAL	
District	TOTAL	Number	Percent	Number	Percent
FIFTH CIRCUIT	**4,734**	**4,543**	**96.0**	**191**	**4.0**
Louisiana					
Eastern	**112**	107	95.5	5	4.5
Middle	**56**	54	96.4	2	3.6
Western	**150**	133	88.7	17	11.3
Mississippi					
Northern	**71**	66	93.0	5	7.0
Southern	**147**	138	93.9	9	6.1
Texas					
Eastern	**273**	255	93.4	18	6.6
Northern	**322**	296	91.9	26	8.1
Southern	**2,117**	2,045	96.6	72	3.4
Western	**1,486**	1,449	97.5	37	2.5
SIXTH CIRCUIT	**1,575**	**1,467**	**93.1**	**108**	**6.9**
Kentucky					
Eastern	**151**	144	95.4	7	4.6
Western	**143**	141	98.6	2	1.4
Michigan					
Eastern	**220**	207	94.1	13	5.9
Western	**130**	126	96.9	4	3.1
Ohio					
Northern	**238**	218	91.6	20	8.4
Southern	**174**	161	92.5	13	7.5
Tennessee					
Eastern	**208**	185	88.9	23	11.1
Middle	**90**	82	91.1	8	8.9
Western	**221**	203	91.9	18	8.1
SEVENTH CIRCUIT	**935**	**858**	**91.8**	**77**	**8.2**
Illinois					
Central	**149**	137	91.9	12	8.1
Northern	**322**	292	90.7	30	9.3
Southern	**86**	83	96.5	3	3.5
Indiana					
Northern	**133**	121	91.0	12	9.0
Southern	**79**	73	92.4	6	7.6
Wisconsin					
Eastern	**110**	98	89.1	12	10.9
Western	**56**	54	96.4	2	3.6
EIGHTH CIRCUIT	**1,659**	**1,550**	**93.4**	**109**	**6.6**
Arkansas					
Eastern	**88**	86	97.7	2	2.3
Western	**59**	57	96.6	2	3.4
Iowa					
Northern	**133**	118	88.7	15	11.3
Southern	**105**	101	96.2	4	3.8
Minnesota	**174**	160	92.0	14	8.0
Missouri					
Eastern	**346**	335	96.8	11	3.2
Western	**224**	203	90.6	21	9.4
Nebraska	**308**	291	94.5	17	5.5
North Dakota	**66**	62	93.9	4	6.1
South Dakota	**156**	137	87.8	19	12.2

| CIRCUIT | | PLEA | | TRIAL | |
District	TOTAL	Number	Percent	Number	Percent
NINTH CIRCUIT	**3,709**	**3,549**	**95.7**	**160**	**4.3**
Alaska	**67**	64	95.5	3	4.5
Arizona	**1,188**	1,162	97.8	26	2.2
California					
Central	**198**	188	94.9	10	5.1
Eastern	**277**	271	97.8	6	2.2
Northern	**213**	202	94.8	11	5.2
Southern	**759**	721	95.0	38	5.0
Guam	**23**	22	95.7	1	4.3
Hawaii	**148**	142	95.9	6	4.1
Idaho	**74**	70	94.6	4	5.4
Montana	**123**	102	82.9	21	17.1
Nevada	**100**	95	95.0	5	5.0
Northern Mariana Islands	**7**	4	57.1	3	42.9
Oregon	**171**	168	98.2	3	1.8
Washington					
Eastern	**117**	109	93.2	8	6.8
Western	**244**	229	93.9	15	6.1
TENTH CIRCUIT	**1,658**	**1,596**	**96.3**	**62**	**3.7**
Colorado	**210**	204	97.1	6	2.9
Kansas	**234**	216	92.3	18	7.7
New Mexico	**699**	689	98.6	10	1.4
Oklahoma					
Eastern	**37**	33	89.2	4	10.8
Northern	**62**	56	90.3	6	9.7
Western	**79**	74	93.7	5	6.3
Utah	**279**	269	96.4	10	3.6
Wyoming	**58**	55	94.8	3	5.2
ELEVENTH CIRCUIT	**2,107**	**1,947**	**92.4**	**160**	**7.6**
Alabama					
Middle	**60**	57	95.0	3	5.0
Northern	**131**	124	94.7	7	5.3
Southern	**81**	79	97.5	2	2.5
Florida					
Middle	**617**	579	93.8	38	6.2
Northern	**106**	90	84.9	16	15.1
Southern	**662**	598	90.3	64	9.7
Georgia					
Middle	**107**	100	93.5	7	6.5
Northern	**212**	192	90.6	20	9.4
Southern	**131**	128	97.7	3	2.3

[1]Of the 21,025 cases, 20 were excluded due to missing information on mode of conviction.

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extracted June 6, 2005; table prepared July 11, 2005). Percents may not sum to 100 percent due to rounding.

GUILTY PLEAS AND TRIALS IN EACH PRIMARY OFFENSE CATEGORY[1]
Special Post-Booker Coding Project (Data Extracted 06/06/05)

PRIMARY OFFENSE	TOTAL	PLEA		TRIAL	
		Number	Percent	Number	Percent
TOTAL	**21,004**	**19,813**	**94.3**	**1,191**	**5.7**
Murder	**21**	16	76.2	5	23.8
Manslaughter	**17**	15	88.2	2	11.8
Kidnapping/Hostage Taking	**13**	7	53.8	6	46.2
Sexual Abuse	**98**	82	83.7	16	16.3
Assault	**175**	156	89.1	19	10.9
Robbery	**426**	396	93.0	30	7.0
Arson	**13**	11	84.6	2	15.4
Drugs - Trafficking	**7,447**	6,987	93.8	460	6.2
Drugs - Communication Facility	**106**	105	99.1	1	0.9
Drugs - Simple Possession	**174**	166	95.4	8	4.6
Firearms	**2,613**	2,370	90.7	243	9.3
Burglary/B&E	**12**	12	100.0	0	0.0
Auto Theft	**28**	24	85.7	4	14.3
Larceny	**558**	539	96.6	19	3.4
Fraud	**1,897**	1,771	93.4	126	6.6
Embezzlement	**156**	153	98.1	3	1.9
Forgery/Counterfeiting	**271**	257	94.8	14	5.2
Bribery	**71**	68	95.8	3	4.2
Tax	**177**	165	93.2	12	6.8
Money Laundering	**271**	238	87.8	33	12.2
Racketeering/Extortion	**185**	166	89.7	19	10.3
Gambling/Lottery	**31**	31	100.0	0	0.0
Civil Rights	**16**	14	87.5	2	12.5
Immigration	**5,040**	4,947	98.2	93	1.8
Pornography/Prostitution	**365**	343	94.0	22	6.0
Prison Offenses	**114**	111	97.4	3	2.6
Administration of Justice Offenses	**291**	263	90.4	28	9.6
Environmental/Wildlife	**51**	50	98.0	1	2.0
National Defense	**4**	4	100.0	0	0.0
Antitrust	**5**	4	80.0	1	20.0
Food & Drug	**18**	17	94.4	1	5.6
Other Miscellaneous Offenses	**340**	325	95.6	15	4.4

[1]Of the 21,025 cases, 21 were excluded due to one or both of the following reasons: missing primary offense category (1) or missing information on mode of conviction (20).

SOURCE: U.S. Sentencing Commission, Special Post-Booker Coding Project, BOOKER05 (data extracted June 6, 2005; table prepared July 11, 2005). Percents may not sum to 100 percent due to rounding.

U.S. SENTENCING COMMISSION
SPECIAL POST-BOOKER CODING PROJECT
DATA EXTRACTION DATE: JUNE 6, 2005

V. SENTENCE LENGTH

Distribution of Offenders Receiving Sentencing Options for the Most Frequently Applied Guidelines
Fiscal Years 1999-2003 and Post-Booker Fiscal Year 2005 (data extracted June 6, 2005)

	FY 1999		FY 2000		FY 2001		FY 2002		FY 2003		Post-Booker	
	N	%	N	%	N	%	N	%	N	%	N	%
Drug Trafficking §2D1.1[1]	20,763	100.0	21,715	100.0	22,608	100.0	24,013	100.0	23,833	100.0	7,000	100.0
Prison only[2]	19,406	93.5	20,422	94.0	21,143	93.5	22,407	93.3	22,455	94.2	6,637	94.8
Prison plus confinement conditions[3]	481	2.3	430	2.0	469	2.1	515	2.1	402	1.7	144	2.1
Probation plus confinement conditions[4]	400	1.9	379	1.7	488	2.2	465	1.9	469	2.0	92	1.3
Probation only[5]	476	2.3	484	2.2	508	2.2	626	2.6	507	2.1	127	1.8
Immigration Unlawful Entry §2L1.2[1]	5,547	100.0	6,341	100.0	5,946	100.0	6,993	100.0	9,167	100.0	3,089	100.0
Prison only[2]	5,495	99.1	6,291	99.2	5,901	99.2	6,952	99.4	9,132	99.6	3,050	98.7
Prison plus confinement conditions[3]	13	0.2	10	0.2	14	0.2	7	0.1	11	0.1	7	0.2
Probation plus confinement conditions[4]	2	0.0	1	0.0	1	0.0	0	0.0	2	0.0	1	0.0
Probation only[5]	37	0.7	39	0.6	30	0.5	34	0.5	22	0.2	31	1.0
Firearms §2K2.1[1]	2,218	100.0	2,997	100.0	3,629	100.0	4,173	100.0	5,425	100.0	2,022	100.0
Prison only[2]	1,976	89.1	2,604	86.9	3,177	87.5	3,680	88.2	4,779	88.1	1,797	88.9
Prison plus confinement conditions[3]	82	3.7	104	3.5	141	3.9	158	3.8	174	3.2	64	3.2
Probation plus confinement conditions[4]	87	3.9	147	4.9	155	4.3	139	3.3	224	4.1	83	4.1
Probation only[5]	73	3.3	142	4.7	156	4.3	196	4.7	248	4.6	78	3.9
Theft/Fraud §2B1.1 or §2F1.1[1]	8,979	100.0	9,015	100.0	8,768	100.0	9,243	100.0	9,606	100.0	2,340	100.0
Prison only[2]	4,101	45.7	4,253	47.2	4,339	49.5	4,531	49.0	4,803	50.0	1,273	54.4
Prison plus confinement conditions[3]	1,069	11.9	1,077	11.9	1,053	12.0	959	10.4	840	8.7	226	9.7
Probation plus confinement conditions[4]	1,543	17.2	1,540	17.1	1,481	16.9	1,421	15.4	1,463	15.2	288	12.3
Probation only[5]	2,266	25.2	2,145	23.8	1,895	21.6	2,332	25.2	2,500	26.0	553	23.6

[1]Sections report only cases with one single guideline application using the indicated guideline. Cases receiving only monetary sentences are excluded.

[2]Prison only cases receive straight prison time.

[3]Prison plus confinement cases receive a combination of prison time and alternative confinement time as defined in USSG §5C1.1.

[4]Probation plus confinement cases receive, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

[5]Probation only cases receive straight probation time.

National Data
Average and Median Sentence Imposed[1] for the
Most Frequently Applied Guidelines
Fiscal Year 1999 and Post-Booker Fiscal Year 2000 (data extracted June 6, 2005)

	Fiscal Year 1999			Fiscal Year 2000		
	Average Months	Median Months	N	Average Months	Median Months	N
All Cases (one guideline computation)[2]	**51**	**30**	**48,611**	**50**	**30**	**51,342**
Drug Trafficking §2D1.1[3]	**71**	**48**	**20,763**	**72**	**50**	**21,715**
Prison only[4]	74	51	19,406	74	57	20,422
Prison plus confinement conditions[5]	26	10	481	21	10	430
Probation plus confinement conditions[6]	6	6	400	6	6	379
Probation only[7]	0	0	476	0	0	484
Immigration Unlawful Entry §2L1.2[3]	**35**	**30**	**5,547**	**36**	**33**	**6,341**
Prison only[4]	35	30	5,495	36	33	6,291
Prison plus confinement conditions[5]	33	33	13	21	10	10
Probation plus confinement conditions[6]	—	—	2	—	—	1
Probation only[7]	0	0	37	0	0	39
Firearms §2K2.1[3]	**58**	**37**	**2,218**	**53**	**37**	**2,997**
Prison only[4]	62	41	1,976	57	37	2,604
Prison plus confinement conditions[5]	21	10	82	23	10	104
Probation plus confinement conditions[6]	6	6	87	7	6	147
Probation only[7]	0	0	73	0	0	142
Theft/Fraud §2B1.1 or §2F1.1[3]	**14**	**10**	**8,979**	**14**	**10**	**9,015**
Prison only[4]	18	14	4,101	19	15	4,253
Prison plus confinement conditions[5]	9	8	1,069	9	8	1,077
Probation plus confinement conditions[6]	5	6	1,543	5	6	1,540
Probation only[7]	0	0	2,266	0	0	2,145

[1]Sentence data report the sum of imprisonment and any type of confinement as defined in USSG §5C1.1.

[2]All statistics in the table report data for cases with one single guideline computation for the specified fiscal year. The "All Cases" row reports all cases regardless of the one guideline applied. Cases receiving only monetary sentences are excluded.

[3]Each guideline-specific section reports only cases with one single guideline application using the indicated guideline.

[4]Prison only sentence categories report straight prison time.

[5]Prison plus confinement sentence categories report the sum of prison time and alternative confinement time as defined in USSG §5C1.1.

[6]Probation plus confinement categories report statistics for cases receiving, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

[7]Probation only categories report cases receiving straight probation time. By definition, the confinement time is zero months for these cases.

SOURCE: U.S. Sentencing Commission, 1999 and 2000 Fiscal Year Datafiles, USSCFY99 and USSCFY00.

National Data
Average and Median Sentence Imposed[1] for the
Most Frequently Applied Guidelines
Fiscal Year 2001 and Post-Booker Fiscal Year 2002 (data extracted June 6, 2005)

	Fiscal Year 2001			Fiscal Year 2002		
	Average Months	Median Months	N	Average Months	Median Months	N
All Cases (one guideline computation)[2]	**50**	**30**	**51,809**	**51**	**30**	**55,856**
Drug Trafficking §2D1.1[3]	**70**	**48**	**22,608**	**71**	**51**	**24,013**
Prison only[4]	72	51	21,143	74	57	22,407
Prison plus confinement conditions[5]	29	10	469	22	10	515
Probation plus confinement conditions[6]	6	6	488	6	6	465
Probation only[7]	0	0	508	0	0	626
Immigration Unlawful Entry §2L1.2[3]	**35**	**30**	**5,946**	**30**	**27**	**6,993**
Prison only[4]	35	30	5,901	30	27	6,952
Prison plus confinement conditions[5]	20	10	14	20	10	7
Probation plus confinement conditions[6]	—	—	1	—	—	0
Probation only[7]	0	0	30	0	0	34
Firearms §2K2.1[3]	**52**	**37**	**3,629**	**53**	**37**	**4,173**
Prison only[4]	56	40	3,177	57	37	3,680
Prison plus confinement conditions[5]	22	10	141	18	10	158
Probation plus confinement conditions[6]	6	6	155	6	6	139
Probation only[7]	0	0	156	0	0	196
Theft/Fraud §2B1.1 or §2F1.1[3]	**15**	**10**	**8,768**	**16**	**10**	**9,243**
Prison only[4]	20	15	4,339	20	15	4,531
Prison plus confinement conditions[5]	9	8	1,053	9	10	959
Probation plus confinement conditions[6]	5	6	1,481	6	6	1,421
Probation only[7]	0	0	1,895	0	0	2,332

[1]Sentence data report the sum of imprisonment and any type of confinement as defined in USSG §5C1.1.

[2]All statistics in the table report data for cases with one single guideline computation for the specified fiscal year. The "All Cases" row reports all cases regardless of the one guideline applied. Cases receiving only monetary sentences are excluded.

[3]Each guideline-specific section reports only cases with one single guideline application using the indicated guideline.

[4]Prison only sentence categories report straight prison time.

[5]Prison plus confinement sentence categories report the sum of prison time and alternative confinement time as defined in USSG §5C1.1.

[6]Probation plus confinement categories report statistics for cases receiving, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

[7]Probation only categories report cases receiving straight probation time. By definition, the confinement time is zero months for these cases.

SOURCE: U.S. Sentencing Commission, 2001 and 2002 Fiscal Year Datafiles, USSCFY01 and USSCFY02

National Data
Average and Median Sentence Imposed[1] for the
Most Frequently Applied Guidelines
Fiscal Year 2003 and Post-Booker Fiscal Year 2005 (data extracted June 6, 2005)

	Fiscal Year 2003			Post-Booker FY2005		
	Average Months	Median Months	N	Average Months	Median Months	N
All Cases (one guideline computation)[2]	**52**	**30**	**60,786**	**55**	**33**	**18,462**
Drug Trafficking §2D1.1[3]	**77**	**57**	**23,833**	**82**	**60**	**7,000**
Prison only[4]	79	60	22,455	84	60	6,637
Prison plus confinement conditions[5]	20	10	402	19	10	144
Probation plus confinement conditions[6]	6	6	469	6	6	92
Probation only[7]	0	0	507	0	0	127
Immigration Unlawful Entry §2L1.2[3]	**28**	**24**	**9,167**	**28**	**24**	**3,089**
Prison only[4]	28	24	9,132	28	24	3,050
Prison plus confinement conditions[5]	22	10	11	9	10	7
Probation plus confinement conditions[6]	—	—	2	—	—	1
Probation only[7]	0	0	22	0	0	31
Firearms §2K2.1[3]	**56**	**37**	**5,425**	**58**	**37**	**2,022**
Prison only[4]	59	41	4,779	61	41	1,797
Prison plus confinement conditions[5]	21	10	174	33	12	64
Probation plus confinement conditions[6]	6	6	224	6	6	83
Probation only[7]	0	0	248	0	0	78
Theft/Fraud §2B1.1 or §2F1.1[3]	**16**	**12**	**9,606**	**20**	**12**	**2,340**
Prison only[4]	21	16	4,803	25	18	1,273
Prison plus confinement conditions[5]	9	10	840	10	10	226
Probation plus confinement conditions[6]	6	6	1,463	6	6	288
Probation only[7]	0	0	2,500	0	0	553

[1]Sentence data report the sum of imprisonment and any type of confinement as defined in USSG §5C1.1.

[2]All statistics in the table report data for cases with one single guideline computation for the specified fiscal year. The "All Cases" row reports all cases regardless of the one guideline applied. Cases receiving only monetary sentences are excluded.

[3]Each guideline-specific section reports only cases with one single guideline application using the indicated guideline.

[4]Prison only sentence categories report straight prison time.

[5]Prison plus confinement sentence categories report the sum of prison time and alternative confinement time as defined in USSG §5C1.1.

[6]Probation plus confinement categories report statistics for cases receiving, as a condition of probation, alternative confinement time as defined in USSG §5C1.1.

[7]Probation only categories report cases receiving straight probation time. By definition, the confinement time is zero months for these cases.

SOURCE: U.S. Sentencing Commission, 2003 Fiscal Year Datafile, USSCFY03; Special Post-Booker Coding Project BOOKER05 (data extraction on June 6, 2005).